

SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

HEARING BEFORE THE

SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY
ACT AND OTHER INTERNAL SECURITY LAWS
OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

EIGHTY-FOURTH CONGRESS

SECOND SESSION

ON

SCOPE OF SOVIET ACTIVITY IN THE
UNITED STATES

DECEMBER 17, 1956

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SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

MONDAY, DECEMBER 17, 1956

UNITED STATES SENATE,
SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION
OF THE INTERNAL SECURITY ACT AND OTHER
INTERNAL SECURITY LAWS OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met, pursuant to call, at 10:30 a. m., in the Old Supreme Court Chamber, United States Capitol, Senator Olin D. Johnston presiding.

Present: Senators Johnston and Jenner.

Also present: J. G. Sourwine, associate counsel; William Rusher, administrative counsel; and Benjamin Mandel, research director.

Senator JOHNSTON. The committee will come to order.

You may call the first witness.

Mr. SOURWINE. The Honorable Francis Wilcox, Assistant Secretary of State.

Senator JOHNSTON. Will you please come around, Mr. Wilcox, and hold up your right hand to be sworn.

Do you swear the evidence you give before the subcommittee to be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WILCOX. I do.

(Testimony of Francis O. Wilcox at this point in the hearing is printed in the preceding volume of this series, part 37 of Scope of Soviet Activity in the United States.)

Mr. SOURWINE. Mr. Waldman.

Senator JOHNSTON. Do you swear the evidence you give before this subcommittee to be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WALDMAN. I do.

TESTIMONY OF HENRY S. WALDMAN, CHAIRMAN, INTERNATIONAL ORGANIZATIONS EMPLOYEES LOYALTY BOARD, ELIZABETH, N. J.

Mr. SOURWINE. Will you give the committee your full name and your present title?

Mr. WALDMAN. My name is Henry S. Waldman, of Elizabeth, N. J., Chairman of International Organizations Employees Loyalty Board.

Mr. SOURWINE. And in that post you succeeded Mr. Pierce Gerety?

Mr. WALDMAN. I did, sir, in March 1954.

Mr. SOURWINE. And what are your duties in that position, Mr. Waldman?

Mr. WALDMAN. My duties in that position are: (1) I preside over a seven-member board; (2) assist in the administration of the duties of the board; and to hold meetings, and of course to look over the investigations, hold loyalty hearings if same are necessary, and to generally supervise the work.

Mr. SOURWINE. Who are the other members of the board, sir?

Mr. WALDMAN. There is a Col. H. Grady Gore, of Washington, D. C.; C. Ed Winton, who is school superintendent, of Kearny, N. J.; a Mr. George Kauffmann, who is an attorney in Kentucky; and Mrs. Catherine Carpenter, of Pennsylvania; a Mr. Richard Biggers, of Charlotte, N. C.; and Mrs. Gilman, of Connecticut.

Mr. SOURWINE. The Board was organized in July 1953—at the end of July 1953?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Is it correct, sir, that the effect of the two Executive orders, concerning which Mr. Wilcox testified, is that every United States citizen who is an employee of, or is considered for employment by, an international organization of which the United States is a member, becomes the object of an investigation either by the Federal Bureau of Investigation or the Civil Service Commission Investigations Division, depending on the nature of his employment?

Mr. WALDMAN. That is true.

Mr. SOURWINE. And every employee who is in a professional capacity or has a high-level job must be the subject of an FBI full field investigation?

Mr. WALDMAN. That is true.

Mr. SOURWINE. Mr. Waldman, would you describe for our record the process the Board uses in gathering and evaluating information on employees or prospective employees?

Mr. WALDMAN. Yes. You mean in applicant cases?

Mr. SOURWINE. Yes.

Mr. WALDMAN. In applicant cases, the application comes into our office. As soon as that comes in, we give it for investigation, let us say, to the Civil Service Commission, if the applicant is not on the international recruited staff. The Civil Service Commission starts an investigation. If in the course of its investigation derogatory information appears, immediately it is converted into a full field investigation by the FBI.

Now, we also have adopted a new policy, of late, in an effort to give Americans quicker and more employment. We make now, by agreement with the State Department and with the approval of the Justice Department and the concurrence of the international organizations, what is known as a name check, and that takes us 10 days to make.

The name check, as you know, is a check made of the records of the FBI, Senate committee, House committee, Military Intelligence, Army, Navy, and things like that. If the response is favorable, we notify the organization that the man is apparently all right, in the first instance.

We reserve the right, however, to continue our investigation, and if anything derogatory appears, the man is just employed on a temporary basis, as it were, subject to the right to be disaffiliated with that organization.

Mr. SOURWINE. You are clearing them, now, initially, for employment on the basis of a name check?

Mr. WALDMAN. We are, sir.

Mr. SOURWINE. This procedure that you discuss, of having either the Civil Service or an FBI investigation, was instituted after this committee had exposed cases of communism in the United Nations; is that right?

Mr. WALDMAN. I would say that the greatest deterrent of any disloyalty in government, and the greatest thing which has been done, was the committee hearings in 1952 which, for the first time, pointed out very graphically the situation which existed in a certain international organization.

Mr. SOURWINE. Mr. Waldman, does the Board receive information from any sources other than the Civil Service Commission and the Federal Bureau of Investigation?

Mr. WALDMAN. No, sir; we do not.

Mr. SOURWINE. You do receive information compiled by those agencies from other sources?

Mr. WALDMAN. Yes, sir.

We have not, and we do not on our own initiative—that is, we direct further inquiry from time to time, but we do it through the Federal Bureau of Investigation.

Mr. SOURWINE. Now, to what degree is this information analyzed by the staff of the Board after you receive it?

Mr. WALDMAN. I didn't get your question.

Mr. SOURWINE. To what degree is this information which you receive analyzed by the staff of the Board?

Mr. WALDMAN. Two members of the staff read it, and with each investigation we have an analysis made by members of the staff. In addition to that—

Mr. SOURWINE. Is that a written analysis?

Mr. WALDMAN. Yes, sir; that is written and all have copies—and in addition to that, three members of the Board, if there is any slight derogatory information, must further read that and come to their own conclusions and sign that there was not, for instance, a reasonable doubt as to their loyalty.

Mr. SOURWINE. That almost answers my next question, which was the degree to which Board members participate in this evaluation.

Mr. WALDMAN. I would say, sir, that it is microscopic.

Mr. SOURWINE. In other words, the Board members do not, largely, participate in the evaluation? Or do I misunderstand you?

Mr. WALDMAN. No. The evaluation is made by members of the staff who are trained in the loyalty field. But in addition to that, each of us reads it, and we come to our own conclusion. We are not influenced, necessarily, by the staff recommendation.

Mr. SOURWINE. You mean that the whole Board, each individual member, goes over each individual case?

Mr. WALDMAN. I am sorry. I should have said a panel of at least three will read it if derogatory matter appears.

If it is a simple case where there is no derogatory information then one member only need read it.

Mr. SOURWINE. If there is no derogatory information it can be cleared by one member who concurs with the staff?

Mr. WALDMAN. Yes.

Let us say, a secretary who is employed, who has led a quiet life and never joined anything, those are very simple cases.

Mr. SOURWINE. And if there is any derogatory information it must go to at least a panel of three?

Mr. WALDMAN. It must go to three. And before it is cleared at least two members must concur in it.

Mr. SOURWINE. Now, is there any higher requirement for cases which you send to the agencies with an advisory that the Board feels there is disloyalty or there is doubt in that regard to it?

Mr. WALDMAN. Well, generally, that has been preceded by a hearing in which a panel of three has adjudicated it.

Senator JOHNSTON. Say the panel is divided; 2 will pass on it favorably and 1, we will say, will not. Do any other members of the Board look into that?

Mr. WALDMAN. No. We have entrusted it—in other words, it would mean otherwise—if you had a 7-man Board, it would be uneconomic, and it would take a long time for 7 to read it.

What I meant was, if there was no derogatory information 2 of our examiners evaluate it independently, and 1 member of the Board affixes his name after he has read it; however, when any case comes up—let us say a man has been a member of a few front organizations, or is suspect as to his conduct, in such case it is known as a loyalty case, or one containing derogatory information.

Now, such case gets the following treatment: First, two examiners read it and then draw an analysis. And we don't let it go at that. Three members of the Board must then pass upon that case.

Mr. SOURWINE. Of whom two must approve it?

Mr. WALDMAN. Of whom at least two must approve it.

Senator JOHNSTON. Say, you turn it down by 2 to 1. Does the applicant know why he is turned down?

Mr. WALDMAN. Yes, sir.

But even before that the case would be marked as a hearing case. No applicant is merely turned down as the result of our reading of the files. If we believe that it is of sufficient importance, that it looks *prima facie* as if the man ought to be removed, we convert that into a hearing case. We notify the man of the time and place, generally near his home, either in New York or in Washington, we give him—we serve him first with an interrogatory or questionnaire. We let him know, within the limits of national security, what the charges against him are. We give him an opportunity to reply to those charges.

Not in every instance is there a hearing. If the man gives us a reply that, to three reasonable men, appears to be—and in the evaluation of our examiners—appears to cover a few of the doubts which appear on the record, we will close that case out on the ground that there has been no reasonable doubt as to his loyalty. However, if his reply to our questionnaire still leaves doubt, we will give him a hearing and give him an opportunity to orally explain himself.

Mr. SOURWINE. Does the Board have the power of subpoena?

Mr. WALDMAN. No; we do not.

Mr. SOURWINE. Would it be helpful if you had that power?

Mr. WALDMAN. We have long felt that it would be.

Mr. SOURWINE. Does the Board have the power to administer oaths?

Mr. WALDMAN. Yes; we do have that.

Mr. SOURWINE. Do you have the power to compel testimony?

Mr. WALDMAN. No; we do not. But I would say that, in a large number of the hearing cases we had, no one has ever taken the fifth

amendment, no one has ever refused to testify as to those actually before us. Of course, we had the UNESCO cases in Europe, a few days ago, where we went there, and while some members of that organization did show up, there were seven who did not appear.

Mr. SOURWINE. As a matter of fact, you heard Mr. Wilcox's testimony that there had been no incident in which a witness had refused to give evidence?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. As a matter of fact, have there ever been any cases where witnesses have refused to answer the questions, or some of your questions?

Mr. WALDMAN. Singularly, there have been practically none, yet with this reservation: We have had a few who said, for instance, that by reason of conscience they would not tell whether they, in turn, had associated with somebody, where we knew their father, let us say, was a Communist, and we had the son in front of us, he would say, "I will talk to you about anyone," for instance, "who is dead, but I will not speak against my father." We have had about five cases of such.

Mr. SOURWINE. Were they all strictly in that category? You had no cases in which they refused to talk about themselves?

Mr. WALDMAN. No; they talked about themselves very freely, but they would not talk about the others.

Mr. SOURWINE. You take the case of Mr. Behrstock; are you familiar with that?

Mr. WALDMAN. Yes; I am.

Mr. SOURWINE. Mr. Behrstock refused to testify; didn't he?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. He refused to testify about questions having to do with himself?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. That was at least one case in which a witness refused?

Mr. WALDMAN. Yes. We have had several. I might point out, Mr. Sourwine, that Mr. Behrstock came back to the United States at his own expense, and he made, as it were, complete confession in the sense that he did talk.

Mr. SOURWINE. We will get to Mr. Behrstock's individual case, I didn't mean to bring it up out of turn, but I wanted the record to speak clearly as to whether there have been witnesses that refused to answer questions, because I want the record to show here whether the Board feels that it should have the power to compel testimony. Let me explain.

You have the power to administer the oath, the oath calls for the whole truth, but if the witness declines to give you the whole truth, you have no sanction to apply, you have no way at the present time to get him to answer the questions.

Mr. WALDMAN. Yes, sir. But I might point this out to you. If we have the file of the Federal Bureau of Investigation, and we ask the witness questions, and if the witness does not answer, we, of course, have the right to adjudicate the case on the basis of the evidence in the file, and must somehow bear in mind his refusal to answer questions which he might easily have done as bearing on the question of his loyalty.

Mr. SOURWINE. But you do feel that it would be helpful if you had some kind of a sanction that you could apply? In other words, if

it were possible for you to hold a witness in contempt, if there were authority by which you could hold a witness in contempt for refusal to answer questions before you?

Mr. WALDMAN. We have long favored that.

Mr. SOURWINE. What legal remedy is available to the employee who is dismissed by an international organization?

Mr. WALDMAN. Well, of course, technically, after we have heard the case and made our advisory determination, our function stops there. But it has been brought to our attention—the man of course could in the first instance, if we recommend his dismissal, he could ask us for a rehearing. Let's assume that the status is still the same. If the Secretary General should dismiss him, then by various complicated means and some continental theory of jurisprudence the man finds his way to international tribunals—he has that remedy.

Mr. SOURWINE. He has the right to go to an appeal board, doesn't he, in his own organization?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. And then goes from that appeal board to the three-man tribunal, which is the high administrative tribunal of his organization?

Mr. WALDMAN. Yes. But generally that is in Geneva.

Mr. SOURWINE. And then he goes from that to the second or subsidiary of the International Court of Justice, such as the ILO Tribunal?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Does the Executive order under which you operate provide for furnishing the individual in question—with offering him a hearing and summary of the information against him?

Mr. WALDMAN. The individual gets the summary of the evidence in the files against him by the fact that we have asked him interrogatories. The interrogatories which we give him and ask him in the first instance to answer give him quite a definite idea of what is sought concerning him.

Mr. SOURWINE. Would it be a fair statement that the individual is not given any summary of the information against him, but that he is in a position to gather, from the nature of the questions in the interrogatories generally, what the nature of the information is?

Mr. WALDMAN. Yes, because we will ask him a number of questions, do you know so-and-so, it is reported that on the blank date of blank that you addressed a writers' conference in New York City, what was your purpose in being there, and what did you say?

Mr. SOURWINE. In other words, the interrogatory information is all covered in the interrogatories?

Mr. WALDMAN. Yes, sir. He would come to a meeting and know pretty much what he is called upon to meet.

Mr. SOURWINE. But there is no specific summary of the interrogatory information furnished the employee and labeled as such, is there?

Mr. WALDMAN. No, sir.

Mr. SOURWINE. Does the Board have authority to require answers to its questionnaires?

Mr. WALDMAN. We do not have authority, no.

Mr. SOURWINE. Would it be helpful to the Board if you had such a power?

Mr. WALDMAN. Yes, I think it would.

Mr. SOURWINE. Do you know whether such authority would be given to the Board by Executive order, or whether it would require legislation?

Mr. WALDMAN. Frankly, on that I wouldn't know.

Mr. SOURWINE. Mr. Waldman, does the Board ever recommend the dismissal—has the Board ever recommended the dismissal of an international employee, or does it merely furnish advisory opinions as to whether there is reasonable doubt of an individual's loyalty to the United States?

Mr. WALDMAN. We can only give advisory opinion. But I might say, sir, that we have the right at any stage under the Executive order to advise an international organization. We have had instances where we believed that the man was a bad case, either from suitability or a loyalty risk. We have communicated that to the State Department, that we thought there was some urgency, and the State Department, in turn, has communicated that to an international organization, and there have been instances where the man was relieved of his work.

Or, we may have cases of applicants where there is a working arrangement with international organizations, so that if it is a bad case, so-called *prima facie*—

Senator JOHNSTON. In every case have they acted upon your recommendations?

Mr. WALDMAN. I do not believe so, sir, in every case.

Mr. SOURWINE. How many hearings has the Board held, Mr. Waldman?

Mr. WALDMAN. My secretary may have that. I am sure it is much over a hundred—it is 177, including 9 hearings where individuals did not appear to testify.

Mr. SOURWINE. Can you tell us how many of those have been held in the last 6 months?

Mr. WALDMAN. About a dozen.

Mr. SOURWINE. And how many of them within the last 30 days?

Mr. WALDMAN. One.

Mr. SOURWINE. Would that indicate your work is continuing; it is not wound up by any means, is it?

Mr. WALDMAN. No, sir. In other words, we feel that it is a constant process of being vigilant. I might say that, by hearing our last case, we completed every single employee case, every one is now investigated.

Mr. SOURWINE. Could you give the committee, sir—I don't expect you have the figures here now, although if you do it would be fine—could you give the committee for the record a statement showing how many cases for each international organization have been subject to examination and evaluation by the Board, and in how many of those cases there have been advisory memorandums respecting doubtful loyalty?

Mr. WALDMAN. Well, I have here a list of all of the organizations, showing all that we have done, making in all a total of over 7,072 cases.

Mr. SOURWINE. Could that chart be furnished for the record, sir?

Mr. WALDMAN. Yes, sir.

(The chart referred to above is marked "Exhibits Nos. 363, 363-A and 363-B" and appears on following pages.)

EXHIBIT NO. 363
Status of investigations, Executive Order 10422, as amended, Nov. 30, 1956—Applicants

Agency	Investigations ¹				Completed				In process			
	FBI	CSC	90 day	Total	FBI	CSC	90 day	Total	FBI	CSC	90 day	Total
UN-SYG	496	1,462	504	2,462	461	1,287	2,218	35	175	34	241	1
UN-KRA	156	44	1	201	155	44	200	1	0	0	0	0
UN-ICEF	16	27	0	43	16	27	0	0	0	0	0	0
UN-RWRA	20	5	0	25	20	5	0	0	0	0	0	0
UN-HCR	0	1	0	1	0	1	0	0	0	0	0	0
Total	688	1,539	505	2,732	652	1,364	471	2,487	36	175	34	245
Specialized agencies:												
UNESCO	148	17	51	216	144	15	51	210	4	2	0	6
ICAO	14	0	3	17	13	0	3	16	1	0	0	1
FAO	150	11	27	188	144	10	27	181	6	1	0	4
WHO	146	3	122	271	135	3	118	259	8	0	2	12
ILO	25	4	31	69	25	2	31	58	0	0	0	0
ITU	6	1	0	7	6	1	0	7	0	0	0	12
Bank Fund	48	107	22	177	44	99	22	165	4	8	0	3
WMO	11	45	8	64	11	42	8	61	0	0	0	3
Inter-American organizations:												
PAU	34	62	13	109	31	44	13	88	3	18	0	21
PASB	67	34	30	131	61	33	30	124	6	1	0	7
Agricultural sciences	13	0	1	14	13	0	1	14	0	0	0	0
Inter-American Defense Board	2	16	0	18	2	15	0	17	0	1	0	1
PAIGH	3	1	1	5	3	0	1	4	0	0	0	0
Inter-American Radio Organization	0	0	0	0	0	0	0	0	0	0	0	0
Other multilateral organizations:												
ICEM	67	20	25	112	66	19	24	109	1	1	1	3
GATT	0	0	3	3	0	0	3	0	0	0	0	0
Cotton Advisory Committee	0	0	0	1	0	1	0	1	0	0	0	0
Intercartelary Union	0	0	0	0	0	0	0	0	0	0	0	0
Hydrographic Bureau	0	2	0	5	0	0	5	7	0	0	0	0
Caribbean Commission	4	0	2	5	4	0	2	6	0	0	0	5
South Pacific Commission	11	31	0	42	11	26	0	37	0	5	0	0
Inter-American Tropical Tuna												
Bilateral commissions:												
International North Pacific Fisheries	0	0	0	0	0	0	0	0	0	0	0	0
International Pacific Halibut Commission	0	14	16	30	0	13	16	29	0	1	0	1
International Pacific Salmon Fisheries	2	1	5	8	2	1	5	8	0	0	0	0
Grand total	1,441	1,907	870	4,218	1,372	1,688	831	3,891	69	219	39	327

¹ Does not include investigations discontinued because no longer applicants.

EXHIBIT NO. 363-A

Status of investigations, Executive Order 10422, as amended Nov. 30, 1956—Summary

Agency	Total investigations ¹ employees and applicants						Total completed cases						Total cases in process		
	FBI	CSC	90 day	Total	FBI	CSC	90 day	Total	FBI	CSC	90 day	Total			
UN-SYG	953	2,814	504	4,271	914	2,632	470	4,016	39	182	34	255			
UN-KRA	252	85	1	253	251	85	1	337	1	0	0	1			
UN-ICF	47	67	0	114	47	66	0	113	0	1	0	1			
UN-RWA	36	13	0	49	36	13	0	49	0	0	0	0			
UN-HCR	7	1	0	8	7	1	0	8	0	0	0	0			
Total, U. N.	1,295	2,980	505	4,780	1,255	2,797	471	4,523	40	183	34	257			
Specialized agencies:															
UNESCO	227	25	51	303	223	22	51	296	4	3	0	7			
ICAO	44	4	3	51	43	4	3	50	1	0	0	1			
FAO	279	77	27	383	272	75	27	374	7	2	0	9			
WHO	255	20	122	397	245	20	118	383	10	0	0	4			
ILO	67	18	31	116	67	16	31	114	0	2	0	2			
ITU	8	2	0	10	8	2	0	10	0	0	0	0			
BANK	165	271	22	458	161	263	22	446	4	8	0	12			
FUND	109	200	8	317	109	8	8	312	0	0	0	5			
WMO	0	0	0	0	0	0	0	0	0	0	0	0			
Inter-American organizations:															
PAU	144	185	13	342	141	165	13	319	3	20	0	23			
PASB	117	82	30	229	111	81	30	222	6	1	0	7			
Agricultural Sciences	39	2	1	42	39	2	1	42	0	0	0	1			
Inter-American Defense Board	10	36	0	46	10	35	0	45	1	0	0	1			
PAIGH	5	3	1	9	5	2	1	8	0	0	0	0			
Inter-American Radio Organization	0	1	0	1	0	1	0	1	0	0	0	0			
Other multilateral organizations:															
ICEM	97	20	25	142	96	19	21	139	1	1	1	3			
GATT	2	3	7	2	2	3	2	3	7	0	0	0			
Coton Advisory Committee	3	2	0	5	3	2	0	5	0	0	0	0			
Interparliamentary Union	0	1	0	1	0	1	0	1	0	0	0	0			
Hydrographic Bureau	2	0	0	2	2	0	0	2	0	0	0	0			
Caribbean Commission	4	0	5	9	4	0	5	9	0	0	0	0			
South Pacific Commission	5	2	2	9	5	2	2	9	0	0	0	0			
Inter-American Tropical Tuna	18	33	0	51	18	23	0	46	0	5	0	5			
Bilateral commissions:															
International North Pacific Fisheries	1	0	0	1	0	0	0	1	0	0	0	0			
International Pacific Halibut Commission	5	21	16	42	20	16	1	41	0	1	0	1			
International Pacific Salmon Fisheries	9	1	5	15	9	5	5	15	0	0	0	0			
Grand total	2,910	3,988	870	7,768	2,834	3,755	831	7,420	76	233	39	348			

¹ Does not include investigations discontinued because of separations, resignations, etc.

EXHIBIT NO. 363-B

Status of investigations, E. O. 10422, as amended Nov. 30, 1956—Employees

Agency	Investigations 1			Completed			In process			Forms out- standing ²
	FBI	CSC	Total	FBI	CSC	Total	FBI	CSC	Total	
UN-SYCG	457	1,352	1,809	453	1,345	1,798	4	7	11	
UN-KRA	96	41	137	96	41	137	0	0	0	
UN-ICEF	31	40	71	31	39	70	0	1	1	
UN-RWA	16	8	24	16	8	24	0	0	0	
UN-HCR	7	0	7	0	0	7	0	0	0	
Total, UN Specialized agencies:	607	1,441	2,048	603	1,433	2,036	4	8	12	
UNESCO	79	8	87	79	7	86	0	1	1	
ICAO	30	4	34	30	4	34	0	0	0	
FAO	129	66	195	128	65	193	1	1	2	
WHO	109	17	126	107	17	124	2	0	0	
ILO	42	14	56	42	14	56	0	0	0	
ITU	2	1	3	2	1	3	0	0	0	
Bank Fund	117	164	281	117	164	281	0	0	0	
WMO	98	155	253	98	153	251	0	2	2	
Inter-American organizations:	0	0	0	0	0	0	0	0	0	
PAU	110	123	233	110	121	231	0	2	2	
PASB	50	48	98	50	48	98	0	0	0	
Agricultural Sciences	26	2	28	26	2	28	0	0	0	
Inter-American Defense Board	8	20	28	8	20	28	0	0	0	
PAIGH	2	2	4	2	2	4	0	0	0	
Inter-American Radio Organization	0	1	1	0	1	1	0	0	0	
Other multilateral organizations:										
ICEM	30	0	30	30	0	30	0	0	0	
GATT	2	2	4	2	2	4	0	0	0	
Cotton Advisory Committee	3	1	4	3	1	4	0	0	0	
Interparliamentary Union	0	1	1	0	1	1	0	0	0	
Hydrographic Bureau	2	0	2	2	2	2	0	0	0	
Caribbean Commission	2	0	2	2	2	2	0	0	0	
South Pacific Commission	1	2	3	1	2	3	0	0	0	
Inter-American Tropical Tuna	7	2	9	7	2	9	0	0	0	
Bilateral Commissions:										
Inter-American North Pacific Fisheries	1	0	1	1	0	1	0	0	0	
International Pacific Halibut Commission	5	7	12	5	7	12	0	0	0	
International Pacific Salmon Fisheries	7	0	7	7	0	7	0	0	0	
Grand total	1,469	2,081	3,550	1,462	2,067	3,529	7	14	21	2

¹ Does not include investigations discontinued because of separations, resignations, etc. ² Forms not submitted but investigations conducted and completed on 2 individuals.

But I wouldn't know as to—I don't think it shows doubtful loyalty in each organization. Our two heaviest ones have been U. N. and UNESCO.

Mr. SOURWINE. If that chart could be furnished, and then if you examine it later and find it does not answer the question, would you endeavor to give the committee the information, organization by organization?

Mr. WALDMAN. It is very simple. We could give that to you in a few hours.

(The information supplied by Mr. Irwin was marked "Exhibit No. 364," and is as follows:)

EXHIBIT No. 364

UNITED STATES CIVIL SERVICE COMMISSION,
INTERNATIONAL ORGANIZATIONS EMPLOYEES LOYALTY BOARD,
Washington, D. C., February 5, 1957.

Mr. J. G. SOURWINE,
*Associate Counsel, Subcommittee to Investigate the Administration of the
Internal Security Act and Other Internal Security Laws,
Committee on the Judiciary, United States Senate, Washington, D. C.*

DEAR MR. SOURWINE: I have your letter of January 7, 1957, wherein you set forth two matters on which your chairman requests reports.

In response to the request for the number of cases from each international organization and the number of cases of doubtful loyalty, there is attached hereto a breakdown, by international organization, showing the number of cases adjudicated by the International Organizations Employees Loyalty Board as of November 30, 1956 (the latest such figures available), and the number of adverse advisory determinations of the Board.

With regard to the request for the number of advisory opinions or memorandums presented by the International Organizations Employees Loyalty Board, in each case adjudicated by the Board, a determination, as an advisory opinion, is issued to the head of the particular international organization involved. In each case in which the Board renders an adverse determination, such determination is accompanied by a memorandum of the reasons for the determination. This is in accordance with the provisions of part I, paragraph 5, of Executive Order 10422, as amended, which states: "The Board shall transmit its determinations, as advisory opinions, together with the reasons therefor stated in as much detail as the Board determines that security considerations permit, to the Secretary of State for transmission to the Secretary General of the United Nations * * *."

If I can be of further assistance to you, do not hesitate to call upon me.

Sincerely,

FREDERICK D. IRWIN, *Executive Secretary.*

Enclosure No. 1

International organization	Completed cases	Ineligible determinations
United Nations (SYG).....	4,016	8
United Nations (UNKRA).....	337	0
United Nations (UNICEF).....	113	0
United Nations (UNRWA).....	49	0
United Nations (UNHCR).....	8	0
Total, United Nations.....	4,523	8
United Nations Educational, Scientific and Cultural Organization.....	296	7
International Civil Aviation Organization.....	50	0
Food and Agriculture Organization.....	374	1
World Health Organization.....	383	2
International Labor Organization.....	114	0
International Telegraphic Union.....	10	0
International Bank for Reconstruction and Finance.....	446	0
International Monetary Fund.....	312	0
Pan American Union.....	319	0
Pan American Sanitary Bureau.....	222	0
Inter-American Institute of Agricultural Sciences.....	42	0
Inter-American Defense Board.....	45	0
Pan American Institute of Geography and History.....	8	0
Inter-American Radio Organization.....	1	0
Intergovernmental Committee for European Migration.....	139	0
General Agreement on Tariffs and Trade.....	7	0
Cotton Advisory Committee.....	5	0
Interparliamentary Union.....	1	0
International Hydrographic Bureau.....	2	0
Caribbean Commission.....	9	0
South Pacific Commission.....	9	0
Inter-American Tropical Tuna Commission.....	46	0
International North Pacific Fisheries Commission.....	1	0
International Pacific Halibut Commission.....	41	0
International Pacific Salmon Fisheries Commission.....	15	0

Mr. SOURWINE. Does this chart, sir, show the information with respect to UNESCO?

Mr. WALDMAN. Well, it will show, for instance, how many FBI investigations were made for UNESCO, how many civil service cases, where they were 90-day cases in process.

Mr. SOURWINE. Would you run through that list and give us the figures for UNESCO, so that we will know what the figures are on the chart?

Mr. WALDMAN. UNESCO. At the end of November 30, 1956, 148 FBI investigations, 17 Civil Service Commission, 51 90-day cases—that, for instance, I might explain to you gentlemen, someone might be called upon to address a convention in Denmark, or just be called on a consultant basis, he is what is known as a 90-day case; a total of 216 UNESCO.

Mr. SOURWINE. Does the chart show how many hearings were held?

Mr. WALDMAN. Those were employees. Then there were applicant casts—UNESCO, 227; FBI, 25; Civil Service Commission, 51, 90-day cases—this is total investigations, employees and applicants—303 UNESCO.

Mr. SOURWINE. Do you have a figure on how many hearings were held as a result of those investigations, or as a part of them?

Mr. WALDMAN. Well, I think I could give you an intelligent guess.

Mr. SOURWINE. It isn't shown in the chart?

Mr. WALDMAN. No; it is not.

I think we have had about 14 UNESCO cases.

Mr. SOURWINE. Now, do you have the figures on the number of cases in which there has been a memorandum respecting doubtful loyalty?

Mr. WALDMAN. You mean advisory determination?

Mr. SOURWINE. Yes.

Mr. WALDMAN. Eighteen.

Mr. SOURWINE. Sir, if the chairman will so approve, I would like to request that you furnish the committee with the information by agencies as to the total that has been subject to examination and evaluation, and the total in which there was a memorandum advising you respecting the loyalty.¹

Mr. WALDMAN. Yes, sir; I will do that promptly.

Senator JOHNSTON. We would like to have that.

Mr. SOURWINE. Can you tell us in how many cases employees have refused to testify before the Board?

Mr. WALDMAN. You mean, sir, when they absented themselves and did not come?

Mr. SOURWINE. When you asked them to appear to testify and they refused to do so.

Mr. WALDMAN. Yes, sir; I think seven UNESCO cases.

Mr. SOURWINE. Well, there were seven in Paris.

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. And then there had been at least two previously.

Mr. WALDMAN. One in Rome.

Mr. SOURWINE. And then there had been one prior to that, had there not?

Mr. WALDMAN. I am not too sure; there might well have been.

Senator JOHNSTON. Did they before or afterward give any excuse why they did not appear?

Mr. WALDMAN. No.

And I might say this, sir: We had notified them time after time, and had representatives of the United States State Department notify them.

Mr. SOURWINE. Mr. Chairman, I might say that we are going into the question of these seven. They have all been offered an opportunity to appear before the committee. I will offer the correspondence, showing that the committee offered to pay their way, as the chairman knows, to appear, and they have all declined and refused to come.

I was attempting to lay the foundation here before discussing the individual cases, if that is all right.

Do you know of any recent cases, any cases since the refusal of the UNESCO people in Paris?

Mr. WALDMAN. No, sir.

We were in Rome this summer, and there were threats that several would not appear, but they did appear.

Mr. SOURWINE. When Mr. Gerety testified before us, he told us about a worker in Saguara, Mexico, who refused to answer the interrogatory, and the contract was not renewed. Do you know of any similar cases?

Mr. WALDMAN. No, sir; we have not had any similar cases.

Mr. SOURWINE. That was Simon Harold Singer. The Board sent him an interrogatory, and he notified the Board he wouldn't answer, because he wouldn't be working there much longer. Do you recall that case?

¹ See exhibit 364.

Mr. WALDMAN. No; I do not.

Mr. SOURWINE. And you don't know of any similar cases?

Mr. WALDMAN. No, sir.

Mr. SOURWINE. Now, you said there were 18 UNESCO employees where there were hearings. Is that the figure you gave?

Mr. WALDMAN. No. There were 18 cases, not only UNESCO but others, where we recommended we send an advisory determination through the State Department where these people were of doubtful loyalty.

Mr. SOURWINE. How many were there in UNESCO out of the 18 total?

Mr. WALDMAN. Seven.

Mr. SOURWINE. There were only seven cases, then, where you furnished an advisory to UNESCO that the individual was of doubtful loyalty to the United States?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Do you know whether all of those seven have left the employment?

Mr. WALDMAN. It is my understanding that the services have been terminated.

Mr. SOURWINE. Mr. Waldman, what is the UNESCO Staff Association?

Mr. WALDMAN. I must talk now from my conversation with their counsel in Europe. The UNESCO Staff Association is evidently a group composed of employees of UNESCO whose alleged purpose is to secure better conditions for their employees, and to unite, and to aid those who get into difficulty, apparently.

Mr. SOURWINE. It is an association of UNESCO employees; is it not?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Has it been active, to your knowledge, in persuading people not to appear before your Board?

Mr. WALDMAN. I have no active—no active knowledge about that. There were some inferences.

Mr. SOURWINE. Mr. Waldman, that UNESCO Staff Association circulated a mimeographed résumé of legal advice concerning a visit from the International Organizations Employees Loyalty Board visit to Europe in 1954. Have you seen that?

Mr. WALDMAN. Yes.

Mr. SOURWINE. In effect, they advised and counseled the employees not to appear; is that so?

Mr. WALDMAN. That is so.

Mr. SOURWINE. Mr. Chairman, I would like to offer the text of that mimeographed statement for the record at this time.

I may say it is already in the committee's record in executive session. I see no reason for this witness, having testified that he saw it—I see no reason why it shouldn't go in now.

Senator JOHNSTON. It will become a part of the record.

(The mimeographed statement referred to was marked "Exhibit No. 365," and is as follows:)

EXHIBIT NO. 365

UNESCO STAFF ASSOCIATION

St.A/Memo/2168.
PARIS, July 1st 1954.

From: President, Staff Association.

To: Members of U. S. Nationality.

Subject: "International Organizations Employees' Loyalty Board."

In accordance with a decision of the Council taken at its meeting on Tuesday, June 29th, on the powers and activities of the above Board, a statement prepared by the Staff Association's legal adviser has been sent to all Councillors and members of the Executive Committee and may be obtained by personal request to any one of them or to the Secretary of the Association in Room 198.

The Staff Association's legal adviser is at present in Rome acting as consultant to Staff members of FAO invited to appear before the Loyalty Board. He will attend the meeting of the Council to be held on Monday next, 5th July, at 1 p. m. in Room 5, to report and to answer questions. You are cordially invited to attend.

HARRY DAWES.

St. A. Memo/2169.
PARIS, July 1st 1954.

RÉSUMÉ OF LEGAL ADVICE FROM THE STAFF ASSOCIATION LAWYERS CONCERNING
THE VISIT OF THE INTERNATIONAL ORGANIZATIONS EMPLOYEES LOYALTY BOARD
TO EUROPE

JUNE 28, 1954.

International civil servants in Paris, Rome, and Geneva are confronted with a new situation, arising from the impending visit of the President's "International Organizations Employees Loyalty Board" to these cities during the month of July. This event constitutes the third phase of the investigation of American citizens employed by U. N. agencies, launched by Executive Order 10,422, which President Truman issued on 9 January 1953. Unlike the two earlier phases—the questionnaires and the interrogatories—this latest development directly concerns all international civil servants in Europe, of whatever nationality.

The questionnaires distributed in February of 1953 ostensibly affected only American citizens. It was only several months after they appeared that the following facts regarding these questionnaires became clear:

(1) there was no legal compulsion upon American citizens to comply (as evidenced by the McCarran Bill S. 3, which would institute such compulsion);

(2) there was no compulsion for Unesco employees, as such, to comply (as confirmed by the Executive Board in April of 1953).

Approximately one year after the questionnaires, numerous Americans employed by U. N. agencies in Europe received "interrogatories," which asked specific questions as to their political opinions, activities and associations. Some of the "interrogatories" expressly requested the individuals concerned to give similar information about their colleagues in Unesco, of whatever nationality, notably about those engaged in Staff Association activity. The "interrogatories" affirmed that the purpose of the "loyalty" investigation was to determine the individual's "suitability for employment" by Unesco.

The "Loyalty Board" arrives in Rome on Wednesday, June 30th; it plans to sit in Paris from July 9th to 22d, and then proceed to Geneva. The impending arrival of this body poses a grave problem not only for Americans but for their colleagues in the international civil service:

Americans who may be invited to appear should be aware of the following facts:

1. There is some question as to the legal validity of this "loyalty procedure" and of the Executive Order which created it.

(a) The standard of "loyalty" to the American government applied by the Board is essentially based upon a list of "subversive" organizations established by the Attorney-General of the United States. This list does not possess the force of law, and indeed its very legality has been questioned by the United States Supreme Court.

(b) The Executive Orders rely upon the findings of a "Commission of Jurists" empanelled by Trygvie Lie, former Secretary-General of the United Nations. The findings of this Commission were in part repudiated by the Secretary-General, criticized by many member nations, and essentially set aside by the U. N. Administrative Tribunal in its decisions of August, 1953. Needless to say, these findings were at no time binding upon Unesco, which practices autonomy from the United Nations in its personnel policy.

(c) The government of the United States has enunciated the doctrine of the "host country" to justify its investigation of the "loyalty" to the United States government of American citizens employed by the United Nations. This thesis is without support in the U. N. Charter, was not endorsed by the U. N. General Assembly, and of course in no event is applicable to the secretariat of Unesco (Paris), FAO (Rome), WHO (Geneva), etc. * * *.

2. The "Loyalty Board" hearings scheduled to take place at the American Embassy in Paris from July 9th to 22d, do not constitute a judicial proceeding. Legal rules of evidence do not apply. However, it should be noted that all declarations are made under oath, and expose the interested party to the possibility of future perjury prosecution. All proceedings are recorded in verbatim minutes. Appearance before the Board is by invitation, and is not obligatory. The Board is without power to compel the attendance of individuals under investigation.

3. Persons electing to appear are entitled to be represented by legal counsel, and assisted by one other "bona fide assistant."

4. Following the hearing, the Board is required to make a determination as to the "loyalty" to the United States of the individual concerned, and to forward its recommendation to the Director-General (through the State Dept.). This recommendation is accompanied by supporting evidence, if derogatory. A copy of the recommendation (but not of the supporting evidence) is furnished to the individual concerned.

5. Under existing staff rules and regulations, the Director-General of Unesco is not required to act upon derogatory information supplied to him by the "loyalty Board". However, it is understood that he may take such information into account.

6. Under the proposed new staff regulations, to be considered by the General Conference at Montevideo, the Director-General would presumably be authorized to dismiss staff members on whom he had received such derogatory information as to their past or present political opinions, activities of associations.

7. Existing Unesco directives on the subject of "loyalty investigations" leave the issue up to the judgment of the individual concerned. A decision not to appear before the "Loyalty Board" may not form the basis for any adverse inference whatsoever; an individual may quite justifiably reach a decision to abstain in his personal appraisal of his obligations as an international civil servant.

Mr. SOURWINE. That mimeographed advice, Mr. Chairman, questions the validity of the Loyalty Board procedure and advises employees that they need not attend; that is couched in terms which purport to influence employees of UNESCO not to attend.

Mr. WALDMAN, when Mr. Pierce Gerety testified before this committee, he expressed the opinion to us that there was a clique of people in UNESCO who placed the interests of the Communists and Communist ideology above any service to UNESCO, and above their own country.

Do you have an opinion on that point?

Mr. WALDMAN. I do not, excepting that I believe that Mr. Gerety must have had a very well defined feeling for that. It was apparent to us that there was some concerted action somewhere which was inimical to the best interests of this country; now, just exactly who did it, I don't know.

Mr. SOURWINE. Do you have any opinion as to whether this condition still persists?

Mr. WALDMAN. They still have the staff association. We have had no evidence since that time of any, shall I say, concerted effort.

Mr. SOURWINE. Mr. Waldman, does the Board deal with any matters other than loyalty?

Mr. WALDMAN. No, sir.

Mr. SOURWINE. You do not deal with improprieties or sexual perversion or criminal records or narcotics addiction?

Mr. WALDMAN. No, excepting this, sir: That, as we gather information, and something comes up through the FBI or Civil Service Commission reports along the lines of what you mention, we may put it under suitability to advise the employer of facts pertaining to the man, and we have had instances where a man did not get his job because of that. We felt that we would pass it along so that they would know whom they were hiring.

For instance, if the man were a swindler and had been arrested for embezzlement.

Mr. SOURWINE. Is that provided for under the Executive order?

Mr. WALDMAN. I don't believe it is.

Mr. SOURWINE. It is an extracurricular activity for the benefit of the international organization?

Mr. WALDMAN. Yes.

Mr. SOURWINE. Mr. Waldman, do you think, under the procedure, you are able to prevent, and do prevent, the employment by the international organizations of any American national of questionable loyalty to the United States?

Mr. WALDMAN. Of course, sir, I could eagerly give an affirmative answer, but it is my considered judgment that we certainly can, and we have tried valiantly.

Mr. SOURWINE. Your program, in other words, is working, in your judgment?

Mr. WALDMAN. I would hate to evaluate it, but I like to think that it is.

Mr. SOURWINE. Would it be helpful at all if American nationals employed by international organizations could be required to answer your questionnaire?

Mr. WALDMAN. Well, they answered to us. For instance, we have personnel and identification forms; when a man wants to work for an international organization he makes that up. We have not had any who deliberately refused to make out that form. In other words, that form asks: "Have you ever belonged to organizations which sought to overthrow the Government?" and things like that.

Mr. SOURWINE. You did have, in the case of some of these UNESCO people, refusals to fill out the questionnaire?

Mr. WALDMAN. I am sorry. I did not think of it in that respect.

Mr. SOURWINE. I just want to find out what the fact is. Were there some of those UNESCO people who did refuse to fill out the questionnaire?

Mr. WALDMAN. It might well be. I am not too conversant on that.

Mr. SOURWINE. You don't know whether there may be any others?

Mr. WALDMAN. No; not to my knowledge; but, to my knowledge, everyone has filled out a questionnaire.

Mr. SOURWINE. Then you don't think you need any authority to require them to fill out the questionnaire?

Mr. WALDMAN. I don't think so, sir. That isn't as important as the subpoenaing of witnesses.

Mr. SOURWINE. You do feel that it would be helpful if American nationals employed by international organizations could be required to appear and give testimony before the Board?

Mr. WALDMAN. Absolutely.

Mr. SOURWINE. And you do feel that it would be helpful if the Board had the right to get answers from those who appeared before it, except as they might plead the fifth amendment?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Mr. Waldman, do you know whether the Board has—Mr. Chairman, I withdraw that question; I think it is out of order at this particular time. I would like to go into the matter of case histories of these UNESCO seven, if I may.

Senator JOHNSTON. Proceed.

Mr. SOURWINE. We have been furnished with a summary of the case histories of these individuals, and I would like to ask, Mr. Chairman, that they may be ordered at this time into the record, but that the order be that the case history of each such individual will appear at that point in the record where we take him up and discuss him. That would save ordering them seriatim.

Senator JOHNSTON. It is so ordered.

Mr. SOURWINE. The first one here, taking them alphabetically, the first one is Julian Robert Behrstock. The summary of the adverse information with regard to Mr. Behrstock, as given to the committee in executive session, is here on page 1, and with your permission, Mr. Chairman, I would like to read it into the record.

Senator JOHNSTON. You may proceed.

Mr. SOURWINE (reading) :

Reports of the investigation in the case of Julian Robert Behrstock contained information from various sources to the following effect:

That he was sponsor and a speaker on the panel of the American Students Union while he attended Northwestern University at Evanston, Ill., at a time when the American Students Union was under the domination of the Communist Party.

That at Northwestern University, in his capacity as editor for the Daily Northwestern, he wrote articles opposing the anti-Communist policy of the Naval ROTC at the college.

That thereafter he was active in the affairs of the United Office and Professional Workers of America, a Communist-dominated union.

That he resigned from the Foreign Broadcast Information Service in October 1947 rather than face security charges arising from his membership in the Magazine Writers Guild, and because of articles written by his brother, Arthur Behrstock, criticizing the United States occupation policy in Germany.

That his brother, Arthur Behrstock, with whom he lived in 1948, has been active in the Communist movement for many years; and that Julian Behrstock is sympathetic with and approves his brother's activities.

That, during his employment with the Foreign Broadcast Service in Tokyo, Julian Behrstock sympathetically associated with a reporter who took refuge in the fifth amendment when questioned regarding membership in the Communist Party and membership on the Committee for a Democratic Far Eastern Policy; that he was also sympathetically associated with a Canadian Communist who is an associate of his brother Arthur.

That he was a close friend of a Communist Party member who was associated with numerous Communist-front organizations.

That Jack Sargent Harris, who was dismissed from the United Nations because he refused to testify regarding his Communist Party membership, had refused to testify concerning his associations with Julian Behrstock on the grounds that such testimony might tend to incriminate him, Harris.

Now, did Mr. Behrstock appear before the Board?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. When he appeared before the Board, did he refuse to answer questions?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Did he refuse to answer, among other questions, questions as to when and under what circumstances he lived with his brother Arthur, whether he had knowledge of his brother's Communist activities, whether he aided his brother in any Communist activity, whether he engaged in activities in concert with other members of the Communist Party, and so forth?

Mr. WALDMAN. That was the first time in Paris, in the summer of 1954.

Mr. SOURWINE. You told us he subsequently appeared and testified before the Board?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. When was that?

Mr. WALDMAN. I believe that was April 1955.

Mr. SOURWINE. That was almost a year later?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. That was after you had sent an advisory to the UNESCO officials respecting his apparent disloyalty?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Now, in his testimony before the Board the second time, did Mr. Behrstock answer fully and freely all the questions the Board put to him?

Mr. WALDMAN. He did, sir, and, if I might say so, I was on the panel at that time.

Mr. SOURWINE. Were all of these questions, all the questions raised by this derogatory information, thoroughly covered at this hearing?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Was it the opinion of the Board that Mr. Behrstock was without question a loyal American?

Mr. WALDMAN. Oh, yes; we had him over the grille for at least 3 hours.

Mr. SOURWINE. Who were the individuals who considered this case besides yourself?

Mr. WALDMAN. I wish that I could remember. I was one of them—I am sorry, sir, I don't know at the moment.

Mr. SOURWINE. Was that considered by a panel of three?

Mr. WALDMAN. It was considered by the same people which heard the case in Europe. And we felt that he had amply explained—he said it was largely a matter of conscience, that in Europe he felt that way, and that he was not going to testify. And then when he came to America, he said that he realized the error of his ways, and we questioned him in all these matters.

Mr. SOURWINE. Did he state whether he had ever been a member of the Communist Party?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Did he deny it?

Mr. WALDMAN. Yes, sir.

And I might say, there was nothing in the file to indicate it.

Mr. SOURWINE. And the board was satisfied that he was not, and had not associated with Communists and not served the Communist purposes in any way?

Mr. WALDMAN. We were satisfied that he hadn't served their purposes.

Mr. SOURWINE. In other words, all of the derogatory information in the file was negated when he testified?

Mr. WALDMAN. We felt that it was satisfactorily explained.

(The summary of the case history of Julian Robert Behrstock was marked "Exhibit 366" and reads as follows:)

EXHIBIT No. 366

JULIAN ROBERT BEHRSTOCK

Julian Robert Behrstock was born on December 14, 1916, at Chicago, Ill. He attended Marshall High and Senn High Schools in Chicago from September 1929 to August 1933. He attended Northwestern University from 1933 to 1937, receiving a B. S. degree. He entered Columbia University in September 1938 to take four courses, but withdrew on November 10, 1938.

Mr. Behrstock was employed as follows:

June 1937-July 1937: Paris Herald Tribune, Paris, France.

July 1937-June 1938: Time and Life magazine, Paris, France.

April 10, 1939-December 15, 1941: F. E. Compton & Co., Chicago, Ill.

December 15, 1941-April 1942: Office for Emergency Management, Washington, D. C.

April 1942-October 16, 1947: Federal Communications Commission, Foreign Broadcasting Intelligence Service.

July 15, 1948—: United Nations Educational, Scientific, and Cultural Organization.

Executive Order 10422 forms for Mr. Behrstock were received by the Department of State on February 20, 1953, and the appropriate investigation was initiated on that date.

An interrogatory was issued by the International Organizations Employees Loyalty Board on March 15, 1954, and was sent to Mr. Behrstock at the address given on his identification and personnel data form. It was returned to the Board unclaimed. The interrogatory was re-sent to the employee, in care of United Nations Educational, Scientific, and Cultural Organization, Paris, France, on April 20, 1954. His reply was received on May 24, 1954.

A hearing was scheduled for July 15, 1954, in Paris, France. Mr. Behrstock appeared and testified before a panel of the Board. Thereafter, an unfavorable advisory determination was made by the International Organizations Employees Loyalty Board on September 15, 1954, and was forwarded to the Secretary of State for transmission to the Director General of UNESCO. This determination was forwarded by the Department of State on September 17, 1954.

Although Mr. Behrstock replied to the interrogatory and appeared at the hearing, he refused to answer certain questions posed by the Board and declined to discuss certain matters pertaining to his case.

Mr. Behrstock requested that his case be reopened and a panel of the Board met with him and his counsel in New York City on March 31, 1955, to consider his request. Mr. Behrstock agreed to answer fully each and every question propounded to him by the Board and his case was reopened and the hearing held.

On April 7, 1955, a favorable advisory determination was made by the International Organizations Employees Loyalty Board and was forwarded by the Board to the UNESCO liaison office at the American Embassy in Paris, France, for transmission to the Director General of UNESCO.

Mr. SOURWINE. Mr. Chairman, I stated earlier that the committee had invited all of these individuals to testify before the committee. I would like to ask the Chair's leave to have in the record the correspondence which the committee had with these individuals respecting their attendance.

I point out that the committee sent identical letters to each of these individuals, reading as follows:

The Senate Internal Security Subcommittee is giving consideration to hearings, tentatively scheduled to begin December 13, 1956, on proposed legislation dealing

with the problem of security measures to be applicable to American nationals employed by UNESCO and other international organizations.

In view of the fact that your name and record might constitute a part of the testimony to be presented, we believe that, in all fairness, you should be given an opportunity to be present at these hearings and to answer any and all questions which may be raised affecting you. Therefore, the committee has made arrangements whereby your transportation will be paid to Washington and return, and you will be given a per diem allowance in lieu of subsistence, in order to enable you to attend these hearings.

Please notify me by return mail regarding your readiness to take advantage of this opportunity, subject to arrangements as to date. A franked envelope addressed to me, and a form which you can use for this purpose, are enclosed.

Sincerely,

JAMES O. EASTLAND,
Chairman, Internal Security Subcommittee.

The committee has received a number of replies, but no acceptance—one case, Gordon McIntire, might be deemed to be a conditional acceptance; we can discuss that case more fully. But I would like to ask that this correspondence be ordered in the record at this time.

SENATOR JOHNSTON. All this correspondence shall become a part of the record.

(The correspondence referred to was marked "Exhibits Nos. 367 and 367-A to F," and is as follows:)

EXHIBIT NO. 367

[Air Mail—Registered]

45 RUE DE L'ARBE SEC, PARIS, LÈRE,
8 December 1956.

JAMES O. EASTLAND,
*Chairman, Internal Security Subcommittee, United States Senate,
Committee on the Judiciary, Washington, D. C., U. S. A.*

DEAR MR. EASTLAND: In reply to your letter of 31 October 1956, please be advised that I cannot accept your invitation to be present at the hearings of the Subcommittee.

As your letter states that the purpose of the hearings is to consider proposed legislation applicable to persons employed by Unesco and other international organizations, I would advise that my employment with Unesco terminated in February 1955.

Accordingly I have informed Unesco of receipt of your letter.

Sincerely,

MRS. KATHRYN BERNSTEIN.
Mme. K. Bernstein.

EXHIBIT NO. 367-A

DECEMBER 5, 1956.

Hon. JAMES O. EASTLAND,
*Chairman, Senate Internal Security Subcommittee,
Senate Office Building, Washington, D. C.*

DEAR MR. CHAIRMAN: This note is to advise you that I am unable to attend the hearings which you are considering. As the proposed legislation is of interest to Unesco, I have taken the liberty of informing them of the matter.

Sincerely,

ANNETTE WILCOX
(Mrs.) Annette Wilcox.

12 rue Pierre Mille, Paris XV, France.

EXHIBIT No. 367-B

PARIS, 30 November 1956.

Hon. JAMES O. EASTLAND,
*Chairman, Senate Internal Security Subcommittee,
 Senate Office Building, Washington, D. C., U. S. A.*

DEAR SIR. In reply to your letter of 31 October 1956, I wish to inform you that I cannot accept your kind invitation to be present at the hearings of the subcommittee.

As you state in your letter that the purpose of the hearings is to consider proposed legislation applicable to persons employed by Unesco and other international organizations, and as I myself have not been so employed since June 1955, I have communicated the contents of your letter to Unesco.

Sincerely yours,

HÉLÈNE VAN GELDER.

EXHIBIT No. 367-C

1. AVENUE DES QUATRE FUSILLÉS, CHATENAY-MALABRY (SEINE),

8 December 1956.

Hon. JAMES O. EASTLAND,
*Chairman, Internal Security Subcommittee,
 United States Senate, Washington, D. C.*

DEAR SENATOR EASTLAND: This will acknowledge your letter dated 31 October, which was delivered to me on 17 November.

Your letter advises me that the Senate Internal Security Subcommittee is planning to hold hearings on proposed legislation dealing with, " * * * security measures to be applicable to American nationals employed by Unesco. * * * " You point out that my name and record might constitute a part of testimony to be presented, and offer me the opportunity to attend these hearings at the Subcommittee's expense, and to answer "any and all questions" affecting me.

Any future national measures applied to international employees of Unesco would affect that Organization, rather than a former staff member such as myself, unlawfully dismissed from Unesco as a consequence of similar national measures applied in the past. Therefore, upon receiving your invitation, I immediately communicated its contents to Dr. Luther H. Evans, Director-General of Unesco, and to the Unesco Executive Board, meeting at New Delhi.

The Executive Board had in fact just received an Advisory Opinion (dated 23 October 1956) from the International Court of Justice at the Hague, upholding the validity of a judgment in my favor, handed down last year by the ILO Administrative Tribunal. This judgment (dated 26 April 1955) declared illegal my dismissal from Unesco for declining to comply with certain measures applied by the United States government to American nationals employed by international organizations.

The Tribunal ruling stated that to apply such purely national measures within the Secretariat would create, " * * * for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been the intention of those who drew up the Constitution of [Unesco]."

It is my understanding that the United States, as a member government of Unesco, is bound by that organization's constitution, which under American law constitutes a foreign treaty taking precedence over domestic laws. Hence it would appear that legislation such as that which may be before your Subcommittee would find itself in conflict with both international and American legality.

In the light of the very recent and pertinent jurisprudence established by the Hague Court, reaffirming the absolute independence of the international civil service from national control, I do not feel it would be proper for me to testify at the impending hearings. However, I trust that the Subcommittee will find the foregoing information of value when it examines proposed legislation affecting the employment of American nationals in Unesco.

Respectfully,

DAVID N. LEFF.

cc: Dr. Vittorino Veronese, Chairman, Unesco Executive Board; Dr. Luther H. Evans, Director-General, Unesco; President, Unesco, Staff Association.

EXHIBIT No. 367-D

PARIS, November 26th, 1956.

Hon. JAMES O. EASTLAND,
*Chairman, Senate Internal Security Subcommittee,
Senate Office Building, Washington, D. C.*

DEAR SIR: I have received your letter of October 31st, and I sincerely regret that I am unable to accept your invitation to appear before your Subcommittee.

As the subject to be discussed by your Subcommittee concerns proposed new legislation to be applicable to United States staff members of international organizations, and as my employment with UNESCO was terminated in June 1955, I have taken the liberty of bringing this matter to the attention of the Organization where it is a matter of immediate concern to them.

Sincerely yours,

RUTH FROMA,
54 Bd. Exelmans, Paris 16.

EXHIBIT No. 367-E

32, RUE LAMENNAIS, CHAVILLE (S.-ET-O.) FRANCE,
December 8, 1956.

Hon. JAMES O. EASTLAND,
*United States Senate,
Washington, D. C.*

DEAR SIR: This is to advise you that it is impossible at this time to avail myself of the opportunity which is offered to me in your letter of October 31.

While I do not know in what respect my name and record can contribute to the purpose of your committee, I consider it an honor for a citizen to be called upon to assist in the formulation of legislation which is within the power of the Congress to enact. I must therefore state that I believe the Constitution of UNESCO excludes the possibility of national legislation relating to the employment by UNESCO of international civil servants. In this connection, may I refer you to the judgments of the Administrative Tribunal of the International Labor Organization, 17-19, of April 26, 1955, and 21-24, of October 29, 1955, and to the advisory opinion of the International Court of Justice, October 23, 1956.

Due largely to the fact that I have not been employed by UNESCO for the past 2 years, and believing that the questions raised in your letter are of concern to the Organization, I have submitted this matter to the Director General and to the Executive Board of UNESCO.

Very truly yours,

PETER DUBERO.

cc: The Director General, Chairman, UNESCO Executive Board, President, UNESCO Staff Association.

EXHIBIT No. 367-F

c/o UNESCO, 19 AVENUE KLÉBER, PARIS XVI, FRANCE,
December 12, 1956.

Hon. JAMES O. EASTLAND,
*Chairman, Senate Internal Security Subcommittee,
Senate Office Building, Washington, D. C.*

DEAR SENATOR EASTLAND: Thank you for your letter of October 31, 1956, inviting me to be present at hearings on proposed legislation dealing with the problem of security measures to be applicable to American nationals employed by UNESCO and other international organizations.

I am sorry I was not able to reply sooner to your letter. It did not reach me until December 1, after having been forwarded from Paris to New Delhi, where I was attending the General Conference of UNESCO.

I have carefully considered what contribution I could usefully make to the hearings. As a citizen of the United States employed by UNESCO, I was duly investigated under the provisions of Executive Order 10422, as amended. The investigation resulted in a favorable determination with respect to my employment by UNESCO. Notice to that effect was sent to me in a letter of April 7, 1955, from the Chairman of the International Organizations Employees Loyalty Board.

Consequently, there would appear to be no issues affecting me in the application of the Executive order. Nor do I have any comment to offer on proposed legislation in this field.

Under these circumstances, I consulted the Director-General of UNESCO as to the reply I should send to your letter. On the basis of the information so far made available to him, the Director-General did not consider that my participation in the hearings was advisable. He pointed out that under the staff regulations of UNESCO I could not, as an international civil servant, pronounce upon proposed legislation in a member state. Moreover, he observed that it would be inconvenient for the Organization to release me from my duties in Paris for a trip to the United States.

In the light of the above, I hope you will appreciate, sir, why I do not feel that I should avail myself of the invitation which you were kind enough to extend to me.

Respectfully,

JULIAN BEHRSTOCK.

Mr. SOURWINE. Sir, the Board considered the case of Mrs. Kathryn Bernstein?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Mr. Chairman, the adverse information with regard to Mrs. Bernstein was as follows:

Reports of the investigation in the case of Mrs. Kathryn Bernstein contained information from various sources to the following effect:

That she was a member of the International Workers Order, which has been cited as Communist controlled by the Attorney General of the United States.

That she was married to a man who was a member of the 52d Ward Club of the Communist Party in Philadelphia and who was also a member of the Wynne Park Club of the Communist Party.

That she was previously employed by a radio station in Philadelphia, to which she brought recordings which had a definite pro-Soviet slant, attempting to introduce them on the program, as a result of which she was discharged.

That she and her husband regularly subscribed to or read Soviet Russia Today, the Daily Worker, and The Worker, the latter two being official organs of the Communist Party in the United States.

That her interest in Communist propaganda was so intense that she became emotionally disturbed when the librarian where she was employed canceled the official library subscription to Soviet Russia Today on the grounds that it was Soviet propaganda.

That she gave as a reference a person who had a lengthy record of affiliation with Communist organizations and activities.

Can you tell us whether Mrs. Bernstein appeared before the Board?

Mr. WALDMAN. No; she did not appear.

Mr. SOURWINE. She refused to appear?

Mr. WALDMAN. Yes.

Mr. SOURWINE. And an advisory with respect to her was submitted?

Mr. WALDMAN. Yes; on August 31, 1954.

Mr. SOURWINE. Was she subsequently dismissed from her position with UNESCO?

Mr. WALDMAN. I understand she was.

(The summary of the case history of Mrs. Kathryn Bernstein was marked "Exhibit No. 368," and reads as follows:)

EXHIBIT No. 368

KATHRYN BERNSTEIN

Kathryn Bernstein, nee Glenn, was born March 10, 1915, at Philadelphia, Pa., to American-born parents. She married Herbert Bernstein.

Mrs. Bernstein graduated from Frankford High School in 1931 and received a B. S. degree in music education from the University of Pennsylvania in 1935. She also attended Strayers Business College in 1935 and Temple University in

1942 and 1943, taking courses in history and accounting. In 1944 she enrolled at the Drexel Institute and received a B. S. degree in library science in 1945. In 1950 and 1951 she also attended the University of Paris in Paris, France.

The employee has been employed as follows:

June 1951 to February 14, 1955: United Nations Educational, Scientific, and Cultural Organization, Paris, France.

1950: New York School of Social Work.

1949: WFLN, Franklin Broadcasting Co., Philadelphia, Pa.

1948: Piasecki Helicopter Corp., Morton, Pa.

1947: Moore Institute of Art, Broad and Masters Streets, Philadelphia, Pa.

1946: Philadelphia College of Osteopathy, Philadelphia, Pa.

1940-44: Fourth Naval District, Staff Headquarters, Philadelphia Naval Shipyard.

1939-40: Department of Justice and War Department, Washington, D. C.

1936-38: Temporary jobs, including Philadelphia Electric Co. and Yale and Towne Manufacturing Co., Philadelphia, Pa.

Executive Order 10422 forms were received by the Office of International Administration on February 24, 1953, and the appropriate investigation was initiated on that date.

An interrogatory was sent to Mrs. Bernstein at the address given on her identification and personnel data form on January 7, 1954, but it was returned unclaimed. It was remailed February 8, 1954, to a new address, but was again returned unclaimed. On March 9, 1954, it was mailed to the employee in care of UNESCO in Paris, France. No reply to the interrogatory was received, although the return receipt for registered mail was received. A followup letter was sent to the employee April 15, 1944.

A hearing was scheduled for July 9, 1954, at Paris, France. Mrs. Bernstein did not appear at the hearing.

An unfavorable advisory determination was made by the International Organizations Employees Loyalty Board on August 31, 1954, and was forwarded to the Secretary of State for transmission to the Director General of UNESCO. This determination was forwarded by the Department of State on September 3, 1954.

Mr. SOURWINE. The Board considered the case of Norwood Peter DuBerg?

Mr. WALDMAN. It did, sir.

Mr. SOURWINE. The adverse information in the case of Mr. DuBerg, Mr. Chairman, was as follows:

Reports of the investigation in the case of Norwood Peter DuBerg contained information from various sources to the following effect:

That he has admitted being a member of the Communist Party for many years and has attempted to recruit others into the party.

That he has attended Communist Party meetings, signed Communist Party nominating petitions, subscribed to the Daily Worker, and to another Communist publication known as the National Guardian.

That his present wife is a member of the Communist Party.

That his divorce from his first wife resulted in large measure from his failure to convert her to communism.

That, while a member of the American Newspaper Guild in 1945-46, he actively advocated and supported the policies, ideologies, and objectives of the Communist Party and associated with members of the pro-Communist faction of the organization.

That he was employed for 2 years as an organizer of the American Newspaper Guild at a time when it was Communist dominated and withdrew from the organization immediately after the leftwing forces were defeated in an election of officers.

That he has been closely and sympathetically associated with members of the Communist Party and Communist thinkers for many years.

That since his employment by UNESCO he has identified himself and associated with a small group of Americans in that organization who are alleged to be Communists.

That he registered in 1938 and 1942 to 1948 with a branch of the American Labor Party which was Communist dominated.

That information critical of the Hungarian Communist regime which was conveyed to DuBerg in confidence by a Hungarian national was immediately

transmitted to the Hungarian secret police under such circumstances as to suggest that DuBerg had communicated with them overnight.

Did Mr. DuBerg appear before the committee?

Mr. WALDMAN. He did not, sir.

Mr. SOURWINE. Did the Board finally arrive at an adverse decision with respect to Mr. DuBerg?

Mr. WALDMAN. It did, on August 27, 1954.

Mr. SOURWINE. And an advisory to that effect was furnished?

Mr. WALDMAN. It was, sir.

Mr. SOURWINE. Did Mr. DuBerg subsequently cease to be employed by UNESCO?

Mr. WALDMAN. I understood he was terminated.

(The summary of the case history of Norwood Peter DuBerg was marked "Exhibit No. 369" and reads as follows:)

EXHIBIT No. 369

NORWOOD PETER DUBERG

Norwood Peter DuBerg was born November 27, 1910, at Des Moines, Iowa. He attended New Haven (Conn.) High School from 1925 to 1928, and later attended Yale University at New Haven, Conn., from 1928 to 1929. From May 3, 1931, to October 21, 1943, and from October 8, 1945, to October 4, 1947, he was employed as a rewrite man with the New York Daily Mirror. During the period November 1943 to October 1945, Mr. DuBerg was employed as a union organizer for the New York Newspaper Guild. From October 6, 1947, to December 31, 1948, Mr. DuBerg was employed as a press officer with the United Nations Appeal for Children, New York, N. Y. He was employed with the United Nations Educational, Scientific, and Cultural Organization, Paris, France, from 1949 to December 31, 1954.

Executive Order 10422 forms were not received but an investigation of Mr. DuBerg was initiated by the Department of State on March 31, 1953.

An interrogatory was issued by the International Organizations Employees Loyalty Board to the employee, in care of United Nations Educational, Scientific, and Cultural Organization, Paris, France, on April 22, 1954. No reply nor the registered mail return receipt was received. A followup letter was sent to him on May 17, 1954.

A hearing was scheduled for July 15, 1954 in Paris, France. Mr. DuBerg did not appear.

An unfavorable advisory determination was made by the International Organizations Employees Loyalty Board on August 27, 1954, and was forwarded to the Secretary of State for transmission to the Director General of UNESCO. This determination was forwarded by the Department of State on September 3, 1954.

Mr. SOURWINE. Did the Board consider the case of Miss Ruth Froma?

Mr. WALDMAN. It did, sir.

Mr. SOURWINE. Mr. Chairman, reports of the investigation in the case of Miss Ruth Froma contained information from various sources to the following effect:

That from 1948 to 1949 she lived with her sister and brother-in-law, both of whom have admitted that at one time they have been sympathetic to Communist causes and the Communist Party line.

That for 5 years she lived with an admitted Communist.

That she herself was described by a close friend of her paramour as a "real Communist."

That she was associated with a former schoolmate who was employed by Julius and Ethel Rosenberg, the executed atomic spies. (The schoolmate was associated with other espionage agents and is herself suspected of being engaged in espionage against the United States.)

That she was also associated with various other Communist sympathizers in New York.

That since her employment by UNESCO she has identified herself with a small group of American Communists.

That in July 1943 she signed a petition issued by the New York County committee of the Communist Party.

That in February 1946 she registered for a Russian-language course, sponsored by the American-Russian Institute, an organization cited as subversive by the Attorney General.

That from 1947 to 1949 she was an official of a union which was expelled by the CIO in 1950 for consistently following the policies of the Communist Party.

That she registered with the American Labor Party at a time when it was Communist dominated.

Did Miss Ruth Froma decline to appear before the Board?

Mr. WALDMAN. She refused to appear.

Mr. SOURWINE. Did the Board subsequently make an adverse recommendation?

Mr. WALDMAN. It did, sir, on the 27th day of August 1954.

Mr. SOURWINE. And she ceased to be employed by UNESCO?

Mr. WALDMAN. Yes, sir. I might say, noting the date of the adverse determination, that we felt that this was a serious matter, and as soon as we came back to the United States steps were taken to write up all these determinations and get them out with due speed.

(The summary of the case history of Ruth Froma was marked "Exhibit No. 370," and reads as follows:)

EXHIBIT NO. 370

RUTH FROMA

Ruth Froma, nee Gassel, was born in New York, N. Y., on February 23, 1920. Her parents were both born in Russia. She was married to one Leon Rosebaum from 1941 to 1946.

Miss Froma attended Hunter College, New York City, from 1935 to 1939 and received a B. A. degree.

Between 1939 and 1943, Miss Froma was employed in saleswork with cosmetic houses in the New York City and New York State area; she was employed by the Columbia Broadcasting System, New York, N. Y., from 1943 to 1949 in a clerical and administrative capacity. She received a secretarial appointment with the United Nations Educational, Scientific, and Cultural Organization in 1950 and in 1953 was employed with that organization as a Sales Officer in the Sales and Distribution Division, Documents and Publications Department, Paris, France. Her employment with UNESCO was terminated on June 20, 1955.

Executive Order 10422 forms were received by the Office of International Administration on February 20, 1953, and the appropriate investigation initiated on that date.

An interrogatory issued by the International Organizations Employees Loyalty Board on February 15, 1954, was returned unclaimed. The interrogatory was reissued to the employee on March 9, 1954, in care of UNESCO in Paris, France, and the registered mail return receipt was received. A follow-up letter was sent on April 15, 1954, inasmuch as the reply to the interrogatory had not been received. On May 3, 1954, a letter was received from Miss Froma, dated April 29, 1954, stating she could not "conscientiously respond" to the interrogatory as to do so would be "inconsistent with my status as an international civil servant."

A hearing was scheduled for July 19, 1954, at Paris, France. Miss Froma did not appear at the hearing; however, she did address a letter to the chairman of the International Organizations Employees Loyalty Board, dated July 12, 1954, in which she stated she must regretfully decline the invitation to appear before the Board for the same reasons she refrained from replying to the interrogatory.

An adverse advisory determination was made by the International Organizations Employees Loyalty Board on August 27, 1954, and was forwarded to the Secretary of State for transmission to the Director General of UNESCO. This determination was forwarded by the Department of State on September 3, 1954.

Mr. SOURWINE. Did the Board consider the case of David Neal Leff?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Reports of the investigation in the case of David Neal Leff contained information from various sources to the following effect:

That while he was employed by UNRRA (United Nations Relief and Rehabilitation Agency) in Yugoslavia, from 1944 to 1947, he joined the Communist Youth Railway Organization, which was under the direction of the Central Yugoslav Communist Party. That during that period of time, although not required to do so by virtue of his official duties, he associated with a number of foreign Communists, and continually indicated his sympathy for the programs and policies of the Communist Party and his contempt for those of his own country.

That after he returned to the United States from Europe, in the spring of 1948, he attended classes for new members of the Los Angeles, Calif., branch of the Communist Party.

That in 1949 he became a member of the Aarone Club of the Communist Party (California).

That he also identified himself with a group of Communist Party members in the Los Angeles area.

That he lived with, or in the home of, a professional Communist, spoke at meetings of Communist-front organizations, married a member of the Communist Party, and returned to Europe on a vessel owned by a Communist-controlled company, booking his passage through a Communist travel agency.

Did the Board consider the case of Mr. Leff?

Mr. WALDMAN. It did, sir.

Mr. SOURWINE. Did he refuse to testify before the Board?

Mr. WALDMAN. He refused to testify, and within 48 hours an advisory determination issued on July 23, 1954, recommending that he be disassociated from UNESCO.

Mr. SOURWINE. Did Mr. Leff subsequently leave the employ of UNESCO?

Mr. WALDMAN. He did, sir.

Mr. SOURWINE. It wasn't quite as rapid as your adverse determination, was it?

Mr. WALDMAN. No, sir.

Mr. SOURWINE. Mr. Chairman, there is some additional information about Mr. Leff which should be in our record. Mr. Leff was the gentleman who refused to testify before a grand jury and who was held in contempt in absentia for his refusal. I have here a statement of chronology with regard to Mr. Leff's case. I won't take the time to read it to the committee, but to complete the record I would like it to be ordered in the record.

Senator JOHNSTON. This shall be ordered into the record.

(The statement of chronology with regard to David Neal Leff was marked "Exhibit No. 371," and reads as follows:)

EXHIBIT NO. 371

DAVID NEAL LEFF

Prior employment: Farm Security Administration, Department of Agriculture, State Department Office of Foreign Relief and Rehabilitation, United Nations Relief and Rehabilitation Administration.

April 1953: Senator Jenner reported Leff refused to come home and appear before the Internal Security Subcommittee.

July 1953: State Department refused to renew Mr. Leff's passport making his passport good only for his return to this country. As an international worker in Paris, Mr. Leff had a special French permit.

May 1946: The Peoples World reported a reception in Mr. Leff's honor sponsored by the American Committee for Yugoslavia Relief, an organization cited by the Attorney General as subversive.

March 1954: Contempt of court action was instituted against Leff, U. N. employee in Paris, for failing to appear before a grand jury investigating subversive activities.

If Mr. Leff fails to answer the show-cause order, it was said a warrant for his arrest will be issued in Federal court.

Mr. Leff's position in Paris has been as information officer of the Rehabilitation Service of the UNESCO.

Officials said that in 1953 Mr. Leff refused to submit to being fingerprinted and refused to fill out a questionnaire furnished by UNESCO to United States citizen employees under an Executive order. The questionnaire included the question: "Are you now or have you ever been a member of the Communist Party or any Communist or Fascist organization?"

Luther H. Evans, Director General of UNESCO, ordered Mr. Leff to return to this country to answer the grand jury subpoena, giving him until last December 17 to do so, but Mr. Leff refused to comply. Mr. Leff appealed Mr. Evans' directive to the UNESCO staff appeal board, and the directive since has been held in abeyance pending the appeal.

March 12, 1954: The 5-man UNESCO Appeals Board ruled that the Director General of UNESCO was "unjustified" in ordering an employee to return to the United States and testify on possible subversive activities.

Suspended May 1953; Reinstated July 1953: Mr. Neff was suspended from his U. N. job after his refusal to come back and face the grand jury last year, but 2 months later was reinstated.

The UNESCO Staff Association had demanded the suspension be lifted because it said no proof of bad conduct on Mr. Leff's part had been established.

March 16, 1954: Telephone call from Jim Cardiello who was in touch with Kilsheimer to the effect that Leff was cited for contempt by a Federal district court in New York City and that the statement to this effect was sent to the Department of Justice to forward to the State Department with the recommendation that it be sent to Luther Evans, head of UNESCO, so that he might have grounds for firing Leff.

March 23, 1954: David Leff has not revised his refusal to answer a subpoena of the Federal court of New York. His principal objection to appearing before a congressional committee investigating subversion activities has been that because he has no passport he has no assurance that he will be allowed to leave the United States after testifying to rejoin his family here (Paris) and resume his position with UNESCO.

March 23, 1954: Luther Evans, director general of UNESCO, ordered David Leff to comply with United States judicial proceedings that have been brought against him. Mr. Evans' order hinted at disciplinary action against Mr. Leff and added he would "attach the greatest importance to the judgment to be rendered by the United States district court."

March 24, 1954: A bench warrant was issued by Federal Judge Henry W. Goddard for the arrest of David N. Leff. He was served by registered mail with a court order calling for his appearance to show cause why he should not be punished for contempt.

Mr. Leff requested postponement of the date on which the show-cause order was returnable in court on the ground that he had not received valid notice of the order until today.

Mr. Leff wrote Director General Luther Evans appealing an order issued to him Tuesday "to satisfy the requirements of the judicial authorities."

March 29, 1954: Dr. Luther Evans announced that he was withholding action in the case of David N. Leff. He stated that if the court refused Mr. Leff's motion to vacate the arrest warrant he would order him to appear in court "under pain of immediate dismissal."

June 1, 1954: Federal Judge Gregory F. Noonan ruled that David N. Leff would have to return to New York City from Paris and answer a grand jury subpoena.

July 17, 1954: David Leff has not accepted an invitation to appear before a visiting United States loyalty board. During the period in which he was called back to the United States to appear before a grand jury, he refused and was quoted as saying he would be happy to appear if he could be heard here.

The United States Loyalty Board was presided over by Pierce J. Gerety, Board President.

August 23, 1954: Four Americans who refused to testify before a United States loyalty board will not have their contracts renewed when they expire in a few

months. The four were not indicted; however, David Leff's contract expires December 31, 1954.

Leff has appealed to the administrative tribunal of the International Labor Office in Geneva against an order by Evans to obey the New York court. The case will be heard September 6, 1954.

At present, Mr. Luther Evans does not consider himself authorized under existing staff regulations to fire the seven who refused to testify [before the United States Loyalty Board].

August 24, 1954: The administrative tribunal whose jurisdiction extends to the three largest specialized agencies of the U. N., opened a series of hearings here today, two of which involve American "loyalty" or "security" cases.

Mr. Leff is challenging an earlier decision of Mr. Evans that he was obliged to comply with a request of a United States grand jury to testify as to his background, associations, etc.

September 6, 1954: A three-member international tribunal ruled today that UNESCO lacked the authority to order an American it employed in Paris to testify before a Federal grand jury in New York.

The tribunal also ordered UNESCO to pay \$300 toward Mr. Leff's legal expenses in contesting the first order and allowed him 15 days to submit his protest on the second to the appeals board. (The first order held that he must testify before the Federal grand jury investigating American personnel of the U. N. The second order held that he must respond to a New York Federal court demand to show cause why he should not be cited for contempt of court for failing to appear before the grand jury.)

October 18, 1954: Four American citizens involved in United States loyalty investigations began today an appeal against a decision not to renew their contracts as members of the staff of UNESCO (1 of the 4 is David Leff).

A UNESCO spokesman said today that individual reports on the 15 members questioned by the Gerety board reached the organization during September.

The four maintained that Dr. Evans' action "constitutes an abuse of power in that it was taken for reasons external to the organization and could not be taken in conformity with the rules and regulations of the organization."

October 16, 1954, New York Times, page 1: The United States, through Henry Cabot Lodge, Jr., denounced the American head of a United Nations agency today for not having immediately dismissed eight United States citizens who had received adverse loyalty reports. He stated Dr. Evans was frustrating Washington's efforts to make sure no suspect Americans were on the international payroll.

In his statement, Lodge said that eight Americans employed by UNESCO had received adverse loyalty reports from the United States International Organizations Employees Loyalty Board.

The United States delegation to the U. N. believes Dr. Evans' powers are broad enough to dismiss the eight outright on misconduct charges.

Lodge stated further: "The fact of being employed by UNESCO gives no American the right to be a law unto himself."

October 16, 1954 (UP), New York Times, page 1: Dr. Evans was quoted as saying in August 1953, at his headquarters in Paris, that the security drive in the United States against Communist infiltration of United Nations agencies was threatening to destroy UNESCO. He said he would oppose efforts by Washington authorities to influence, through loyalty investigations, the hiring and firing of his Agency's American employees.

November 13, 1954, New York Times, page 15: The Director General of UNESCO called on the Agency's General Conference here (Montevideo, Uruguay) to give him wider powers to dismiss members of his staff who are considered security risks.

Dr. Evans said that he had lost confidence in the seven (United States citizens who refused to appear before the Gerety board) but that he could not abrogate their contracts.

Mr. SOURWINE. The order to show cause against Mr. Leff was issued by, I believe it was, Federal Judge Newman, in New York City.

Mr. WALDMAN. Yes.

Mr. SOURWINE. That was in July of 1954. Mr. Leff had refused to return to the United States to testify before the grand jury on the ground that the subpoena had not been served on him within the territorial limits of the United States. The court then issued the order to show cause why he should not be cited for contempt. And Leff appealed both orders.

It is interesting, Mr. Chairman, that in September of 1954 in Geneva a three-man international tribunal ruled that UNESCO lacked authority to order Mr. Leff to testify before the grand jury of the United States, UNESCO had ordered him to return, and he had appealed there.

I have here, Mr. Chairman, from the Civil Service Commission a record of Mr. Leff's employment with the Government of the United States, and I would like to ask that this also be put into the record at this point.

Senator JOHNSTON. This will become a part of the record also.

(The record of the employment of David Neal Leff of the Civil Service Commission was marked "Exhibit No. 372," and reads as follows:)

EXHIBIT No. 372

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., March 19, 1954.

Mr. BENJAMIN MANDEL,

Research director, Internal Security Subcommittee, Committee on the Judiciary, United States Senate, Washington, D. C.

DEAR MR. MANDEL: In accordance with the request in your letter of March 12, 1954, I am forwarding herewith photostatic copies of all application forms available in our files for Mr. David N. Leff, and a transcript of his Federal service as it appears in our service record file.

Sincerely yours,

JOHN W. MACY, Jr., *Executive Director.*

Enclosure 3427.

2140 SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

Standard Form No. 57
Approved April 9, 1942
(Revised June 1942)
U. S. CIVIL SERVICE COMMISSION
U. S. Civil Service Circular No. 332

APPLICATION FOR FEDERAL EMPLOYMENT

INSTRUCTIONS — Answer every question clearly and completely. Type or write legibly in BLACK INK, on printed side ONLY, to assure clear photographic copies for appointing agencies. If you are applying for a specific United States Civil Service Examination, read the Examination Announcement carefully now and direct your application to the U. S. CIVIL SERVICE COMMISSION, WASHINGTON, D. C., unless otherwise directed. Notify same office of any change of address.

This space for agency use:

APP. NO. This space for U. S. Civil Service Commission STT. NO. This space for U. S. Civil Service Commission	1. Name of examination, if any, or name of position applied for.	A.V.	This space for U. S. Civil Service Commission	To U. S. Civil Service Commission
	2. Place of examination (if a written test), or place of employment applied for: (City and State)			
	3. Optional subject (if mentioned in examination announcement): sport, ... Niagara
4. Mr. DAVID N. LEFF Mrs. (First name) (Middle) (Maiden, if any) (Last)		O. S. Gr. E & E. P & D. Ini.	Preference Allowed Veteran Disability Wife Widow Domesticated Closed Adm'd exam. Approved by Exam. date Not Ra. Date Reg. Material att'd. Material filed.	
5. United States Embassy (R. D. or street and number) Mexico, D. F., Mexico (City or post office, and State)		Residence phone) (Business phone)	Indian. Preference Allowed Veteran Disability Wife Widow Domesticated Closed Adm'd exam. Approved by Exam. date Not Ra. Date Reg. Material att'd. Material filed.	
6. Date of birth (month, day, year): Sept. 3, 1918		7. Age last birthday: 24	8. Date of this application: June 17, 1943	
9. Legal or voting residence: State California		10. Telephone numbers: 		
11. (a) Check one (b) Check one: .. Widowed. * Male * Single. ... Separated. ... Female Married. ... Divorced.		12. Height, with weight out shoes 5' 8 1/2 in. 150 lb		
13. Where were you born? New York, New York (Town) (State or country)		Indicates "Yes" or "No" answer by placing X in proper column	Indicates "Yes" or "No" answer by placing X in proper column	Yes No
14. Are you a citizen of the United States? Unless otherwise instructed, naturalized citizens must submit along with this application, Naturalization Certificate; other foreign-born, documentary proof of citizenship. Documents will be returned		*	22. (a) Were you ever in the U. S. military or naval service? If so, give branch of service and date of last discharge. Army Navy Marine Coast Guard Date	*
15. Have you ever been arrested, or summoned into court as a defendant, or indicted, or convicted, or fined, or imprisoned, or placed on probation, or given any court appearance, or held on bail, or you have been ordered to deposit collateral for alleged breach, or violation of any law or police regulation or ordinance whatsoever? If so, list all cases, without any exception whatsoever, under Item 45, page 4, giving, in each case, (1) the date, (2) the place, (3) the cause where the offense alleged, (4) the location where the offense occurred, (4) the name and location of the court, (5) the nature of the offense or violation, (6) the penalty, if any, imposed, or other disposition. The above questions apply to all arrests, trials, and sentences and disciplinary action imposed by courts martial, or as well as in civilian cases. If appointed, your fingerprints will be taken.		*	23. (b) Were all discharges granted under honorable conditions? (c) Have you already established military preference with the Civil Service Commission? If so, check kind of preference below: .. Veteran disabled Widow of veteran widow of veteran	*
16. (a) Have you any physical defect or disability whatsoever? (b) Have you ever had a nervous breakdown? If your answer to either (a) or (b) is yes, give full particulars under Item 45, page 4		*	If you are applying for a specific examination, and wish to claim veteran preference in connection with it, attach C. S. C. (Preference) Form 14 together with the evidence specified therein	*
17. Do you advocate or have you ever advocated, or are you now, or have you ever been a member of any organization that advocates the overthrow of the Government of the United States by force or violence? If so, give complete details under Item 45		*	24. (a) Are you now a member of any branch of military or naval reserve? If so, give name of organization	*
18. Have you ever been discharged for misconduct or unsatisfactory conduct, or forced to resign from any position? If so, state (use Item 45) when and where employed and give the name and address of your employer and the reason for your discharge or forced resignation in each case		*	(b) Are you now on active duty?	*
19. Within the past 12 months, have you used intoxicating beverages? If so, specify:		*	25. Give number of persons completely dependent on you, other than husband or wife.	*
.... Occasionally Habitually. To excess		*	26. Would you accept short term appointment? 6 months 3 months 1 month	*
20. Are any members of your family or relatives (either by blood or by marriage), employed by the United States Government, excluding persons in the armed forces? If so, give name, address, relationship, and branch of service of each such relative under Item 45.		*	27. (a) Would you accept appointment anywhere offered in the United States? Give location:	*
21. Are you NOW employed by the Federal Government? (a) If so, USDA, Farm Security Admin. Apartment 4A-407 Bureau Mexico, D. F., Mexico		*	(b) Would you accept appointment outside the United States? Give location: French or Spanish speaking location	*
(b) If you now are or have ever been so employed, give dates: From January 1940 to present , 19.....		*	(c) Would you accept appointment in Washington, D. C.? If so, and if you are applying for a specific examination, to see if the examination announcement to see if the Certificate of Residence (C. S. C. Form 12) is to be submitted. Proof of residence is required for many kinds of positions	*
22. What is the lowest entrance salary you will accept? \$ 3200 per YR.		*	28. If you are willing to travel speedily, Occasionaly Frequently Constantly.	*
29. How much notice will you require to report for work? Two weeks		*	0-2904-1	

SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES 2141

DAVID N. LEFF

2

31. (a) Have you ever filed applications for any Federal civil service examinations? (If so, list them below)

Titles of examinations		Examined in what cities	Month and year	Yes	No
Jr. Writing & Editing Asst.		Oakland, California	April '41	85.6	

(b) Have you passed any State or other civil service examination (other than the above) within the last 5 years? (If so, give details under Item 45, Page 4)

32. EDUCATION: (a) Circle highest grade completed, elementary or high school: 1 2 3 4 5 6 7 8 9 10 11 (12) Did you graduate? * Yes No

Name and location of school	Dates attended		Years completed		Degrees conferred	Semester hours credit
	From—	To—	Day	Night	Title	Date
(b) College or university Stanford University California	1935	1939	4		A.B.	1939 120

(c) Other University of California Berkeley, California	9-41	12-41	1/3	Studies Time. & Motion
	1/42	5-42	1/3	Agr. Labor Econ.

(d) List your four chief undergraduate subjects	Semester hrs	List your four chief graduate subjects	Semester hrs.
History		Time & Motion Engineering	1/3
Political Science		Agric. Labor Economics	1/3
English			
French			

33. Indicate your knowledge of foreign languages.	READ	SPEAK	UNDERSTAND	Yes	No
French	* Good Fair	*	*		*
Spanish	* Good Fair	*	*		*

34. Are you now a licensed member of any trade or profession (such as electrician, radio operator, pilot, lawyer, CPA, etc.)? If not, have you ever been licensed?

Give kind of license and State Deck Cadet, Calif.

Earliest license (year) 1937

Most recent license (year) 1937

35. REFERENCES: List five persons, who are not related to you by blood or marriage, who live in the United States, and who are or have been mainly responsible for close direction of your work, or who are in a position to judge your work critically in those occupations in which you regard yourself as best qualified.

Full name	Address (Give complete address, including street and number)	Business or occupation
Mr. Harry F. Brown	U.S. Embassy, Mexico, D.F.	Head, Mex. Labor Program
Mr. Jesse L. Farr	U.S. Dept. Agr. San Francisco	Regional Attorney
Mr. Malcolm E. Pitts	Kittredge Blvd., Denver, Colo.	Executive Asst.
Mr. Leland N. Fryer	Farm Security Adm. Portland	Executive Asst.
Mr. John I. Armstrong	Farm Security, Washington, D.C.	Asst. Rehab. Dir.

36. May inquiry be made of your present employer regarding your character, qualifications, etc.? *

37. EXPERIENCE: In the space furnished below give a record of every employment, both public and private, which you have had since you first began to work. Start with your present position and work back to the first position you held, accounting for all periods of unemployment. Describe your field of work and position and, except for employments held less than three months, give your duties and responsibilities in such detail as to make your qualifications clear. Give name you used on pay roll if different from that given on this application.

Place Mexico, D.F., Mexico From Nov. 19 42. to present 19	Exact title of your position Asst. Transporta- tion Supv.	Salary Starting \$ 2700. Per An. Final. \$ 2700.
Name of employer:	Duties and responsibilities: Supervise rail shipments of Mexican labor to employment area in U.S. Perform general administrative duties in Mexico City involving relations with Mexican railroad & government officials, with War Manpower Commission & R. R. Retirement Board. At beginning of program, devised & installed entire procedure, forms & reporting system for recruitment, transportation, employment & repatriation.	
Farm Security Administration Address U.S. Embassy Mexico, D.F., Mexico		
Kind of business or organization: Recruit & transport Mexican labor		
Number and class of employees you supervised 3-5 Sr. Transp. Assts.	Machines and equipment you used:	
Name and title of your immediate supervisor A. J. Tarlock Transportation Supervisor		

2142 SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

37.—Continued.

	3
Place... San Francisco, Calif. From ... July 1942 To ... Nov. 1942 (Month) (Year) (Month) (Year)	Exact title of your position Administrative Assistant Salary: Starting \$ 2100 Per an. Final. \$ 2700 Duties and responsibilities Devised & installed detailed system of budget & personnel controls for four-state region. Analyzed & standardized reporting systems. Assisted in area program planning.
Name of employer: Farm Security Administration Address ... 30 Van Ness Ave. San Francisco, Calif. Kind of business or organization: Regional Director's Staff Number and class of employees you supervised 3 statistical clerks Name and title of your immediate supervisor Jr. Mm. A. Anglin Reason for leaving Transfer to Mexican program of same agency.	Machines and equipment you used
Place San Francisco, Calif. From March 1942 To July 1942 (Month) (Year) (Month) (Year)	Exact title of your position Chief, Reports & Analysis Section Salary: Starting \$ 2100 Per an. Final. \$ 2100 Duties and responsibilities Assisted in setting up emergency program for the Army to handle agricultural phases of evacuating Japanese from West Coast. Prepared policy & operating procedure for --- field offices in four states. Set up & operated reporting & analysis system to keep Army advised of progress. Wrote comprehensive report at end of evacuation describing & analyzing its agricultural aspects for the War Department.
Name of employer: Farm Security Admin. Address ... 30 Van Ness Ave. San Francisco, Calif. Kind of business or organization: Japanese evacuation for WOCA of Army Number and class of employees you supervised 1 statistician 1 sec'y. 4-6 clerk-typists Name and title of your immediate supervisor W. C. Melvey, Chief WOCA-FSA Program Reason for leaving End of emergency promotion	Machines and equipment you used
Place San Francisco, Calif. From Oct. 1941 To March 1942 (Month) (Year) (Month) (Year)	Exact title of your position Asst. Chief, Records & Review Section Salary: Starting \$ 1800 Per an. Final. \$ 1800 Duties and responsibilities Conducted field studies of migratory labor camp management, operation & community organization. Revised & installed appropriate procedures. Set up system of reporting & analyzing project activities, employment & population. Assisted in planning & conducting region-wide training activities for managerial & clerical camp personnel.
Name of employer: Farm Security Admin. Address ... 30 Van Ness Ave. San Francisco, Calif. Kind of business or organization: Migratory Labor Housing Program Number and class of employees you supervised 1 stenographer Name and title of your immediate supervisor Mr. R. D. Conover Reason for leaving Emergency detail & promotion	Machines and equipment you used
Place Arizona & California From Aug. 1940 To Oct. 1941 (Month) (Year) (Month) (Year)	Exact title of your position Case Review Supv. Salary: Starting \$ 1440 Per an. Final. \$ 1500 Duties and responsibilities Supervised maintenance of eligibility standards by grant office in California & Arizona. Conducted field investigations of special cases & problem areas. Prepared & ----- to Federal grand juries evidence of claim fraud. Devised procedures governing policies & routines of administering grants to ----- Carried on in-service training activities for Asst. Grant Supervisor.
Name and title of your immediate supervisor Mr. R. D. Conover Reason for leaving Promotion	Machines and equipment you used

If more space is required, use a Continuation Sheet (Standard Form No. 50) or a sheet of THIN paper, size 8 x 10½ inches. Write on each sheet your full address, date of birth, and examination title, if any. Use one side only. Enclose, unattached, with application.

0-2904-1

SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES 2143

38. Do you hold any position or office under any State, Territory, county, or municipality? _____ Yes No
If so, give details under Item 45.

39. Do you receive any pension or other benefit (exclusive of Adjusted Service Certificate) for military or naval service, or on annuity from the U. S. Government under any Retirement Act? _____ Yes No
If so, give details under Item 45.

40. Show name and address of wife's (or husband's) employer (if none, write "None"):
none

41. (a) Were any of the following members of your family born outside Continental U. S. A.? _____ Yes No
Wife, Husband, Father, Mother, Son, Daughter, Brother, Sister, Grandparent, Uncle, Aunt, Cousin, Nephew, Niece, Grandchild, etc.

If so, indicate which by marking the appropriate space, and show under Item 45 each, (1) full name, including maiden name of wife or mother; (2) birthplace; (3) native citizenship; and (4) U. S. naturalized, date of naturalization.

(b) Have you any relatives, by blood or by marriage (excluding persons in the U. S. armed forces), now living in a foreign country? _____ Yes No

If so, for each relative show under Item 45 the (1) name, (2) relationship, (3) place of residence, (4) birthplace, (5) present citizenship, and (6) whether transient or resident.

42. List any special skills not shown in Question 37, such as operation of short-wave radio, multilith, key-punch, turret-loft, or scientific or professional devices:

SKILL _____ SKILL _____

SKILL _____ SKILL _____

Words per minute in typing _____; stenography _____

Do you have a license to operate an automobile? _____ Yes No

43. State what kind of work you prefer Field liaison representative or unit supervisor abroad _____

44. Give any special qualifications not covered elsewhere in your application, such as (a) your more important publications (do NOT submit copies unless requested); (b) your patents or inventions; (c) hobbies, construction of instruments, etc.

Islets! Stanford University Press (1939), a history of lesser U.S. possessions in the Pacific.

Researched, designed & drew maps for T. A. Bailey's "Diplomatic History of the American People". Crafts (1939). the definitive text on this subject.

4

45. Space for detailed answers to other questions:

Item No. Write in left column numbers of items to which detailed answers apply

46. Selective Service Classification due to vision corrected by glasses.

47. (1) M. I. Leff, M.D.
(2) Russia
(3) Russian
(4) Nat. U. S. Citizen 1918

37. Present salary in Mexico City is \$2700 per annum plus over \$1500 in overtime & foreign service differential.

20. Mr. J. Jacobson
Radio Mechanic First Class
Naval Torpedo Station
Alexandria, Virginia

Mrs. J. Jacobson
Comptometer Operator
General Accounting Office
Washington, D. C.

If more space is required, use a sheet of THIN paper, size 8 x 10½ inches. Write on each sheet your name, full address, date of birth, and examination title (if any). Use one side only. Enclose unattached, with application.

If you claim preference for the Indian Service as an Indian, you must file with this application a certificate from the superintendent of the Indian agency where you are registered, or from the Commissioner, Bureau of Indian Affairs, showing that you have at least one-fourth Indian blood.

JURAT (OR OATH).—This jurat (or oath) must be executed.

The following oath must be taken before a notary public, the secretary of a United States civil service board of examiners, or other officer authorized to administer oaths, before whom the applicant must appear in person. The following are among those not authorized to administer this oath: Postmasters (except in Alaska), Army officers, post-office inspectors, and chief clerks and assistant chief clerks in the Railway Mail Service.

The composition and work in connection with any material required to be submitted for this examination are entirely my own, except where I have given full credit for quoted matter or the collaboration of others by quotation marks and references, and in the composition of the same I have received no assistance except as indicated fully in my explanatory statement.

I, the undersigned, DO SOLEMNLY SWEAR (OR AFFIRM) that the statements made by me in answer to the foregoing questions are full and true to the best of my knowledge and belief, SO HELP ME GOD.

If female, prefix "Miss" or "Mrs." and if married use your own given name, as "Mrs. Mary L. Doe."

(Signature of applicant) (David M. Leff)
(Sign WITH PEN AND INK your name—one given name, initial or initials, and surname)

Subscribed and duly sworn to before me according to law by the above-named applicant this day of 19 , at city [or town] of , and State [or Territory or District] of .

(Signature of officer) _____
(Official title) _____

[Continuation sheet]

David N. Leff. Address: U. S. Embassy, Mexico D. F. Date of birth: Sept. 3, 1918.
(Item 37, continued :)
Place: Phoenix, Arizona.
From Jan. 1940 to August 1940.
Name of employer:
Farm Security Administration.
Address: Phoenix, Arizona.
Kind of business or organization:
Migratory Labor Relief Office.
Imm. Supv: Mr. Wm. Keen, Sr., Grant Supv.
Reason for leaving: Promotion.
Place: San Francisco, California.
From Sept. to Oct. 1939.
Name of employer:
San Francisco Newsletter-Wasp.
Address: 624 Market St., San Francisco, Calif.
Kind of business organization:
Weekly literary magazine.
Imm. Supv.: Miss Lois Whisler, Managing Editor.
Reason for leaving: Return of permanent employee.
Exact title of your position: Asst. Grant Supv.
Salary: Starting, \$1,440 per an. Final, \$1,440.
Duties and responsibilities: Interviewed applicants for migratory labor grants. Investigated living conditions; determined need; prescribed aid in kind, cash, medical care, surplus food stamps. Referred eligibles to other agencies.
Exact title of your position: Reporting, feature-writing, proofreading, editing.
Salary: Starting, \$50 per month.

UNITED STATES CIVIL SERVICE COMMISSION
SERVICE RECORD DIVISION
WASHINGTON 25, D. C.

March 17, 1954

STATEMENT OF FEDERAL SERVICE

Notice to individuals - This record should be preserved - Additional copies of service histories can not be furnished due to limited personnel in the Commission. This record may be presented to appointing officers for their inspection.

NAME	DATE OF BIRTH
LEFF, David N.	9-3-18

Authority for original appointment (Examination from which appointed or other authority--Executive Order, Law, or other exemption)

49 Statute 115, Act of 4-8-35

Effective Date	Nature of action	Position, Grade, Salary, Etc.
4-15-40	Excepted Appointment	Assistant Rural Rehabilitation (Migratory Labor Program) Supervisor, EO-4, \$1440 per annum, AGRICULTURE, Farm Security Administration, Phoenix, Arizona.
6-16-41	Reassignment and Transfer	Assistant Clerk, EO-5, \$1440 per annum, AGRICULTURE, Farm Security Administration, San Francisco, California.
5-16-43	Change in Headquarters	Assistant Transportation Supervisor, CAF-7, \$2700 per annum, AGRICULTURE, Farm Security Administration, Region 9, Mexico City, Mex.
7-1-43	Transfer War Service (Transfer is pursuant to War Food Administrator's Memorandum No. 2, Revised, dated June 21, 1943)	Assistant Transportation Supervisor, CAF-7, \$2700 per annum, AGRICULTURE, War Food Administration, Office of Labor, Mexico City, Mexico
9-19-43	Separation - Transfer	
9-20-43	Appointment by Transfer War Service (Reg. IX-2-a)	Associate Divisional Assistant, P-3, \$3200 per annum, STATE, Office of Foreign Relief and Rehabilitation, Washington, D. C.

J. M. Deem
(Chief, Audit Section) *b/c*

The above transcript of service history does not include all salary changes, intra-agency transfers within an organizational unit not involving changes from one official headquarters or duty station to another, and promotions or demotions, since Federal agencies are not required to report all such actions to the Commission.

(Over)

am

DS 84-43

JANUARY 1954

9-30-43	Separation by Transfer	
10-1-43	Appointment by Transfer (E. O. 9380)	Divisional Assistant, P-3, \$3200 per annum, FOREIGN ECONOMIC ADMINISTRATION, Washington, D. C.
2-28-44	Leave without pay (Transferred to United Nations Relief and Rehabilitation Administration, effective January 1, 1944, under War Service Reg. IX, Section 4)	Assistant Divisional Assistant, P-3, \$3200 per annum.
10-21-45	Transfer (E. O. 9630) (On leave without pay from FEA. to UNRRA)	Associate Divisional Assistant, P-3, \$3200 per annum, STATE. Washington; D.C.
10-13-47	Separation - No return from War Transfer Leave without pay	Associate Divisional Assistant, P-3, \$4149.60 per annum.

Mr. SOURWINE. These, Mr. Chairman, are several newspaper clippings in the New York Times dealing with the Leff case. They explain the chronology of it quite fully. I would like to ask that they be ordered in the record at this point.

Senator JOHNSTON. These clippings shall be made a part of the record, also.

(The clippings referred to were marked "Exhibits No. 373 and No. 373, A through M" and read as follows:)

[New York Herald Tribune, March 12, 1954]

EXHIBIT NO. 373

THREATENS ARREST FOR CONTEMPT: GRAND JURY ORDERS UNESCO MAN TO RETURN FROM PARIS

A Federal grand jury began contempt proceedings yesterday against an American employed in Paris by the United Nations Educational, Scientific, and Cultural Organization (UNESCO).

The grand jury, in its first official action since it was formed a year ago to investigate alleged subversion among American employees of the U. N. ordered David Neal Leff, a Government employee since 1940 and attached to UNESCO since 1949, to appear before it in New York on March 25 or face arrest for contempt.

The 35-year-old Leland Stanford University graduate, the jury charged, ignored a grand jury subpoena issued May 15, 1953; refused to obey an order of Luther H. Evans, Director General of UNESCO, to return to America, and spurned a subpoena of the Senate Internal Security Subcommittee, which is also investigating U. N. activities.

Thomas J. Donegan, Special Assistant Attorney General, said that if Mr. Leff does not return by March 25 "to show cause why he should not be held in contempt," a warrant will be issued for his arrest. When the first subpoena was served on him in Paris, he was offered free passage but refused to return.

Mr. Leff, Mr. Donegan said, also refused a UNESCO order to be fingerprinted or to fill out a questionnaire furnished by the Organization pursuant to an Executive order. The four-page questionnaire asked, among other things: "Are you now, or have you ever been, a member of the Communist Party or any Communist or Fascist organization?"

SUSPENDED, REINSTATED

Mr. Leff was suspended from his \$5,000 a year tax-free job on May 22, a week after he refused to return to this country, but was reinstated July 29 when his appeal against the suspension was upheld by UNESCO's appeal board. He said at the time that he would be willing to testify but felt he would not be allowed

to return to his Paris job if he went to New York. At that time the State Department lifted his passport and stamped it valid "only for return to the United States."

Before he was employed in the UNESCO division of voluntary assistance, which solicits money from more prosperous member nations to be used for education projects in less favored countries, Mr. Leff worked for the Farm Security Administration and Office of Foreign Relief and Rehabilitation.

James B. Kilsheimer 3d, assistant United States attorney, said that in May 1946, the People's World, which he described as "The west coast edition of the Daily Worker," reported a reception in Mr. Leff's honor, sponsored by the American Committee for Yugoslav Relief, an organization cited by the Attorney General as "subversive."

Mr. Donegan explained that the reason the grand jury had not acted sooner was that it "hoped UNESCO would order him back." He added: "When the matter became muddled in red tape, the grand jury decided to take action."

In Paris, Dr. Evans said he would "strongly urge and counsel Mr. Leff to appear as cited, to respond to the citation to show cause and to present his side of the case." He said he had received no official information of the grand jury action. Mr. Donegan said a certified copy of the order was being sent to Dr. Evans through the State Department "for such further action as he sees fit."

In a dispatch from Paris, Mr. Leff was quoted as saying: "As an international civil servant, I'm barred from talking about the matter on my own account."

EXHIBIT No. 373-A

[New York Times, March 12, 1954]

CONTEMPT ACTION FILED ON U. N. AIDE

AMERICAN IN UNESCO REFUSES TO RETURN FROM PARIS FOR INQUIRY ON SUBVERSION

A contempt-of-court action for failure to testify before a Federal grand jury investigating subversive activities was instituted yesterday against an American employed by a United Nations agency in Paris.

Federal Judge Henry W. Goddard signed an order for David N. Leff, a Rehabilitation Service information officer of the United Nations Educational, Scientific, and Cultural Organization, to show cause on March 25 why he should not be cited for contempt.

Mr. Leff, 35 years old, has refused to come here from Paris to be questioned by the grand jury or the Senate Internal Security Subcommittee, James B. Kilsheimer, 3d, assistant United States attorney, said.

Thomas J. Donegan, special assistant to the Attorney General, who has been presenting evidence to the grand jury for a year, said this was the first time a Federal panel had taken action against a United States citizen working abroad for a specialized agency.

The contempt proceeding resulted from Mr. Leff's "failing and refusing to appear before the Federal grand jury here in response to a subpoena served upon him last May in Paris."

Mr. Donegan said Mr. Leff's refusal to appear "is seriously hampering the grand jury's investigation into subversive activities."

United States Attorney J. Edward Lumbard said that in 1953 Mr. Leff refused to submit to fingerprinting and refused to fill out a questionnaire furnished by the United Nations agency to United States citizens pursuant to an Executive order.

The order said that United States citizens employed by the United Nations and its specialized agencies were required to furnish their fingerprints and to fill out a four-page questionnaire that asked, among other things, "Are you now or have you ever been a member of the Communist Party or any Communist or Fascist organization?"

In Paris, Mr. Leff refused to comment on the contempt action, saying that UNESCO rules forbade staff members from making public statements without authorization from the agency's Director.

The Director General, Luther Evans, of the United States, said, however, that he would "strongly urge and counsel Mr. Leff to comply and appear before the grand jury."

Mr. Leff was suspended with pay by Dr. Evans, former Librarian of Congress, last May after he failed to appear before the grand jury in New York. Mr. Leff appealed, and the Appeals Board of the United Nations ordered his reinstatement in July.

Last December, it was learned, Dr. Evans ordered Leff to comply with the subpoena. It was understood that the Director offered to transfer the United Nations employee to New York, but that Mr. Leff declined. Mr. Leff appealed this order.

Last Monday the Appeals Board handed down a decision that said the Director General had no right to give such an order, because as an international civil servant he could not substitute himself for the authorities of a particular government.

In July, the State Department refused to renew Mr. Leff's passport, making his passport good only for his return to this country. As an international worker in Paris, Mr. Leff has a special French permit.

It was said that Mr. Leff was reluctant to return to New York because of the fear that he would be unable to return to Paris.

The Senate Internal Security Subcommittee announced last April that it had been trying, without success, to get Mr. Leff to appear for questioning.

The grand jury, Mr. Donegan said, had hoped that UNESCO officials would order Mr. Leff back. But in view of the Appeals Board's action and "red tape," the panel decided it was necessary to take the contempt action, he added.

Should Mr. Leff fail to appear before the panel on March 25 a bench warrant for his arrest will be sought, Mr. Kilsheimer said.

However, it appears that there is no legal way the grand jury can force Mr. Leff to return. During the Teapot Dome scandal, in the early 1920's, a witness fled to Europe, and, it was noted, United States authorities could not force his return.

Prior to Mr. Leff's employment with the United Nations, which started in 1949, he was employed by the following agencies: the Farm Security Administration, the Department of Agriculture, the State Department Office of Foreign Relief and Rehabilitation, and the United Nations Relief and Rehabilitation Administration.

EXHIBIT No. 373-B

[New York Times, March 18, 1954]

U. N. AID SPURNS WRIT

UNITED STATES CITIZEN IN PARIS AGAIN DEFIES SUBVERSIVE INQUIRY

PARIS, March 17 (Reuters).—An American citizen wanted for questioning about subversive activities before a New York Federal grand jury was said today to have invoked his rights as a United Nations employee here to refuse a subpoena.

It is the second United States court order David Leff has declined. He is employed as an information officer by the United Nations Educational, Scientific, and Cultural Organization.

Mr. Leff refused to accept the subpoena, sent by registered mail, when a UNESCO official handed it to him. The Organization's Appeals Board ruled last Friday that the earlier order was "unjustified."

On March 11 Federal Judge Henry W. Goddard signed an order here requiring Mr. Leff to show cause by March 25 why he should not testify. James B. Kilsheimer 3d, assistant United States attorney, said that if Mr. Leff did not appear by that date a bench warrant would be sought for his arrest.

EXHIBIT No. 373-C

[The New York Times, April 23, 1954, p. 8]

Special to The New York Times.

PARIS, April 22.—David Leff, United States employee of the United Nations Educational, Scientific, and Cultural Organization, has not revised his refusal to answer a subpoena of the Federal court in New York. His position, it was learned today, has not been altered by the experience of Mrs. Rowena Rommell.

Mr. Leff intends to await the verdict of the court on his petition for annulment of the subpoena, which was heard in New York on Tuesday.

His principal objection to appearing before a congressional committee investigating subversive activities has been that because he has no passport he has no assurance that he will be allowed to leave the States after testifying to rejoin his family here and resume his position with UNESCO.

EXHIBIT No. 373-D

[The New York Times, March 30, 1954, p. 9]

LEFF DECISION DELAYED

UNESCO HEAD THREATENS FIRING IF COURT RULES AGAINST AID

Special to The New York Times

PARIS, March 29.—Dr. Luther Evans, Director General of the United Nations Educational, Scientific, and Cultural Organization, announced today that he was withholding action in the case of David N. Leff, a staff member. An arrest warrant was issued against Mr. Leff last Thursday in Federal district court in New York.

A bench warrant was issued by Judge Henry Goddard when Mr. Leff did not appear before him to show cause why he should not be held in contempt for refusing to testify before a Federal grand jury investigating subversive activities.

Mr. Leff has filed a motion to vacate the warrant on the ground that he had officially received the order only on the day it was returnable.

Dr. Evans said that if the court refused Mr. Leff's motion to vacate the arrest warrant, he would order him to appear in court "under pain of immediate dismissal."

EXHIBIT No. 373-E

[Herald Tribune, March 13, 1954]

UNESCO BOARD BACKS LEFF

PARIS, March 12—The Director General of the United Nations Educational, Scientific, and Cultural Organization (Unesco) was unjustified in ordering an employee to return to the United States and testify on possible subversive activities, a Unesco appeals board held tonight.

The employee is David N. Leff, an American citizen working in the Information Section of Unesco here. He has been cited for contempt because he failed to answer a subpoena to appear before a Federal grand jury at New York.

Mr. Leff was subpoenaed last May but refused to return to New York. Director General Luther A. Evans, after repeated requests, finally ordered him to go to New York, but Mr. Leff appealed to the appeals board.

The 5-man board, 2 of whom were appointed by Mr. Evans, is empowered by the organization's bylaws "to give an opinion" to the top executive on appeals arising out of administrative rulings.

The board termed Mr. Evans' order "unjustified."

EXHIBIT No. 373-F

[New York Times, March 26, 1954]

BENCH WARRANT OUT FOR LEFF, U. N. AID

A bench warrant was issued yesterday by Federal Judge Henry W. Goddard for the arrest of David N. Leff, an American employed in Paris by the United Nations Education, Scientific, and Cultural Organization. Mr. Leff has refused to return here to appear before a grand jury investigating subversive activities.

James B. Kilsheimer, third assistant United States attorney, said Mr. Leff, 35-year-old Rehabilitation Service information office, had been served by registered mail with a court order calling for his appearance yesterday to show cause why he should not be punished for contempt.

The grand jury wanted to question Mr. Leff because he failed to fill out a questionnaire as directed under an Executive order. The questionnaire asks, among other things, about Communist Party affiliations.

Special to the New York Times

PARIS, March 25.—David N. Leff received news of a warrant for his arrest without comment tonight at his home in the suburbs.

Earlier it was learned that Mr. Leff had requested postponement of the date on which the show-cause order was returnable in court on the ground that he had not received valid notice of the order until today.

In a letter to Unesco Director General Luther Evans, Mr. Leff said he had appealed an order issued to him Tuesday "to satisfy the requirements of the judicial authorities."

EXHIBIT No. 373-G

[New York Times, March 30, 1954]

LEFF DECISION DELAYED

UNESCO HEAD THREATENS FIRING IF COURT RULES AGAINST AIDE

(Special to the New York Times)

Paris, March 29—Dr. Luther Evans, Director General of the United Nations Educational, Scientific, and Cultural Organization, announced today that he was withholding action in the case of David N. Leff, a staff member. An arrest warrant was issued against Mr. Leff last Thursday in Federal District Court in New York.

A bench warrant was issued by Judge Henry Goddard when Mr. Leff did not appear before him to show cause why he should not be held in contempt for refusing to testify before a Federal grand jury investigating subversive activities.

Mr. Leff has filed a motion to vacate the warrant on the ground that he had officially received the order only on the day it was returnable.

Dr. Evans said that if the court refused Mr. Leff's motion to vacate the arrest warrant he would order him to appear in court "under pain of immediate dismissal."

EXHIBIT No. 373-H

[Evening Star, March 11, 1954]

U. N. EMPLOYEE IN PARIS FACES COURT ORDER IN SUBVERSIVE PROBE

(By the Associated Press)

NEW YORK, March 11.—A contempt-of-court action was instituted here today against David N. Leff, 35, United Nations employee in Paris, for failing to appear before a grand jury investigating subversive activities.

Mr. Leff, a United States citizen, is a U. N. information officer in Paris. A Federal court order was obtained requiring him to show cause why he should not be held in contempt.

Thomas J. Donegan, Special Assistant Attorney General, said a subpoena ordering Mr. Leff to appear before the grand jury was served in Paris last May.

HAMPERING INQUIRY

He said Mr. Leff failed to respond and that his refusal "is seriously hampering the grand jury's investigation into subversive activities."

If Mr. Leff fails to answer the show cause order obtained today, it was said, a warrant for his arrest will be issued in Federal court.

Assistant United States attorney James B. Kilsheimer III said Mr. Leff has been in Paris since 1949. Mr. Leff's position there has been an information officer of the Rehabilitation Service of the U. N. Educational, Scientific, and Cultural Organization.

Officials said that in 1953 Mr. Leff refused to submit to being fingerprinted and refused to fill out a questionnaire furnished by UNESCO to United States citizen employees under an Executive order.

Under the Executive order, United States citizens employed by the U. N. are required to furnish fingerprints and fill out a questionnaire asking among other things: "Are you now or have you ever been a member of the Communist Party or any Communist or Fascist organization?"

REFUSED TO RETURN

Luther H. Evans, Director General of UNESCO, ordered Mr. Leff to return to this country to answer the grand jury subpena, giving him until last December 17 to do so, but Mr. Leff refused to comply.

Mr. Leff appealed Mr. Evans' directive to the UNESCO staff appeal board, and the directive since has been held in abeyance pending the appeal.

Mr. Leff was suspended from his U. N. job after his refusal to come back and face the grand jury last year, but 2 months later was reinstated.

The UNESCO Staff Association has demanded the suspension be lifted because it said no proof of bad conduct on Mr. Leff's part had been established.

In April last year, Senator Jenner, Republican, of Indiana, chairman of the Senate Internal Security Subcommittee, reported that Mr. Leff had refused to come home for questioning by the subcommittee.

EXHIBIT No. 373-I

[New York Times, April 20, 1954]

Special to the New York Times

PARIS. April 22.—David Leff, United States employee of the United Nations Educational, Scientific, and Cultural Organization, has not revised his refusal to answer a subpena of the Federal court in New York. His position, it was learned today, has not been altered by the experience of Mrs. Rowena Rommell.

Mr. Leff intends to await the verdict of the court on his petition for annulment of the subpena, which was heard in New York on Tuesday.

His principal objection to appearing before a congressional committee investigating subversive activities has been that because he has no passport he has no assurance that he will be allowed to leave the States after testifying to rejoin his family here and resume his position with UNESCO.

EXHIBIT No. 373-J

[New York Times, June 2, 1954]

RED JURY ACTION IS VALID ABROAD

JUDGE NOONAN HOLDS UNESCO AID IN PARIS IS OBLIGED TO ANSWER SUBPENA HERE

Federal Judge Gregory F. Noonan ruled yesterday that David N. Leff, an American citizen employed by the United Nations Educational, Scientific, and Cultural Organization, would have to return here from Paris and answer a grand jury subpena.

Mr. Leff, an information officer with UNESCO in Paris, refused to return on the grounds that the subpena had not been served upon him within the territorial limits of the United States. The grand jury that subpenead Mr. Leff was investigating subversive activities.

Judge Noonan's ruling, believed to be the first of its kind in the United States, said that an American citizen served with a grand jury subpenea overseas must return to this country and appear before that body. The law provides that the United States must pay his traveling expenses.

Arnold Bauman, assistant United States attorney in charge of the criminal division, said the decision would greatly facilitate grand jury investigations into subversive and criminal activities of Americans abroad. Such persons now may not claim immunity from appearance before grand juries so long as they remain outside the United States.

Mr. Leff, who has refused to comply with the subpena, now faces a contempt of court proceeding that was instituted last March 11.

EXHIBIT NO. 373-K

[New York Times, July 18, 1954]

BARS LOYALTY HEARING

DAVID LEFF, WHO BALKED HERE, REJECTS INQUIRY IN PARIS

PARIS, July 17—David Leff, American civilian employee of the United Nations who refused to appear before a New York grand jury, has not accepted an invitation to appear before a visiting United States loyalty board, informed sources said today.

Mr. Leff is employed by the United Nations Educational, Scientific, and Cultural Organization. He was called back to the United States to appear before a grand jury but refused and was quoted as saying he would be happy to appear if he could be heard here.

President Eisenhower's International Organizations Employees Loyalty Board has spent a week in Paris hearing those among the 14 doubtful cases at UNESCO who wish to appear.

Now, according to Pierce J. Gerety, board president, it will stay on to hear Americans from agencies in Switzerland. The Swiss Government banned the board from holding hearings there.

EXHIBIT NO. 373-L

[New York Times, August 26, 1954]

APPEAL U. N. OUSTER

ROME OFFICIAL LAYS DISCHARGE TO STATE DEPARTMENT

GENEVA, Switzerland, August 25—A former United States Government employee charged today he had been dismissed from his \$10,000 a year job with the United Nations because of adverse comment about him in a letter from the United States State Department.

Gordon McIntyre was removed as section chief of the Rome headquarters of the Food and Agriculture Organization after 10 months of service. Today he appealed his dismissal before a special United Nations commission here, charging it had been engineered by the State Department.

Mr. McIntyre said he had been dismissed by his superior at only a week after he had been told he was being confirmed in his post. The official reason, he said, was "unsatisfactory service."

He said he would demand that the alleged State Department letter be produced at a subsequent hearing. Both the State Department and the FAO thus far have refused to comment on McIntyre allegations.

(The summary of the case history of David Neal Leff was marked "Exhibit No. 373-M," and reads as follows:)

EXHIBIT NO. 373-M

DAVID NEAL LEFF

David Neal Leff was born September 3, 1918, at New York, N. Y. His parents were both born in Russia.

Mr. Leff attended Far Rockaway High School, Queens, N. Y., from September 1932 to June 1935; Stanford University, Palo Alto, Calif., from 1935 to 1939, and the University of California, Berkeley, Calif., from 1941 to 1942.

During his adult life, Mr. Leff has been employed as a reporter, feature writer, and business manager in private enterprise. He has also been employed with the Federal Government in the following agencies: Farm Security Administration, Department of Agriculture, and the Department of State.

Mr. Leff was employed with the United Nations Relief and Rehabilitation Agency from 1944 to 1947. He was employed by the United Nations Educational,

Scientific, and Cultural Organization in 1949 and his employment was terminated December 31, 1954.

Executive Order 10422 forms were not received but an investigation of Mr. Leff was initiated on March 31, 1953.

An interrogatory was issued to the employee in Paris, France, by the International Organizations Employees Loyalty Board on March 3, 1954, and was apparently delivered on March 9, 1954. When no reply was received, a follow-up letter was sent on April 15, 1954. That, too, was not answered.

A hearing was scheduled for July 16, 1954, at Paris, France, but Mr. Leff did not appear. However, a letter was received by the Chairman of the International Organizations Employees Loyalty Board, dated July 13, 1954, from Mr. Leff in which he stated he "must refrain from attendance" at the hearing as he considers that "any participation on my part in the investigation would be inconsistent with my status as an international official."

An adverse advisory determination was made by the International Organizations Employees Loyalty Board and was hand delivered by the Chairman of the Board to the Director General of UNESCO on July 23, 1954.

Mr. SOURWINE. Mr. Waldman, did the Board consider the case of Mrs. Kathryn Pankey?

Mr. WALDMAN. It did, sir.

Mr. SOURWINE. Mr. Chairman, reports of the investigation in the case of Mrs. Kathryn Pankey contained information from various sources to the following effect:

That during 1946 and 1949 she was employed by the Civil Rights Congress, which is an organization cited by the Attorney General of the United States as a Communist-controlled organization, and which is reliably reported to have employed only Communists or Communist sympathizers.

That she was married to Aubrey Pankey, who has a lengthy record of Communist activities dating from 1944. (Aubrey Pankey was a member of the Communist Party in 1945; has been affiliated with a number of Communist-front organizations and activities, such as the National Negro Congress, the Lenin Memorial Meeting, the Joint Anti-Fascist Refugee Appeal, the Bronx County Committee Red Army Meeting, and the National Council of American-Soviet Friendship. In addition, he has actively participated in Communist-sponsored rallies, parades, and demonstrations in France and in Soviet-controlled countries, and has contributed to the success of such enterprises by appearing as a guest artist.)

That Kathryn Pankey is under her husband's domination.

That in 1946 she registered as an affiliate of the American Labor Party and continued her registration with that party in New York for several years, in an area where the American Labor Party was under Communist domination and control, and at a time after it had been publicly stated that the American Labor Party was Communist-dominated.

Mr. Waldman, did Mrs. Pankey refuse to testify before the Board?

Mr. WALDMAN. She refused to testify, and on August 31, 1954, an adverse determination was filed.

Mr. SOURWINE. Did she subsequently leave the employment of UNESCO?

Mr. WALDMAN. She did.

(The summary of the case history of Kathryn Pankey was marked "Exhibit No. 374," and reads as follows:)

EXHIBIT NO. 374

KATHRYN PANKEY

Mrs. Kathryn Pankey was born at Mobile, Ala. Her date of birth is undetermined inasmuch as investigation reflected various dates of birth as follows: December 16, 1904, December 16, 1902, and February 16, 1902.

Mrs. Pankey attended Maniemit School, Pawling, N. Y., in 1935; Bard College, Annandale-on-Hudson, N. Y., in 1935 and 1936; and Katherine Gibbs School, New York, N. Y., in 1921 and 1922.

She married Robert L. Siering at Yonkers, N. Y., on August 16, 1927, and obtained a divorce from him on January 20, 1945, at Reno, Nev. She married Aubrey Pankey at New York, N. Y., on April 22, 1945.

During her adult life she has been employed as secretary and publicity agent with various organizations in the New York City area. She has resided in the New York City area since 1943 with the exception of periods in 1947 and 1949 when she accompanied her husband on concert tours abroad. She returned to Europe in early 1951 and has remained abroad since.

Mrs. Pankey was employed at the United Nations Educational, Scientific and Cultural Organization in Paris, France, about May 1952. Her employment was terminated on June 20, 1955.

Mrs. Pankey failed to fill out the Executive Order 10422 forms on the grounds that she considered such a violation of her own personal rights and her rights as an international civil servant. However, appropriate investigation of her was initiated by the Department of State, on March 31, 1953.

An interrogatory was issued by the International Organizations Employees Loyalty Board to the employee on March 8, 1954, in care of the United Nations Educational, Scientific and Cultural Organization, Paris, France; and a followup letter was sent on April 15, 1954. No reply was received to either of these letters.

A hearing was scheduled for July 13, 1954, at Paris, France. Mrs. Pankey did not appear at the hearing. However, she did acknowledge receipt of the invitation to appear, by letter of July 9, 1954, in which she stated: "I am sure you are aware that from the outset of this investigation, in February 1953, I have refrained from participation for reasons of principle * * *. Accordingly I wish to advise you that I am unable to accept your invitation to appear."

An adverse advisory determination was made by the International Organizations Employees Loyalty Board on August 31, 1954 and was forwarded to the Secretary of State for transmission to the Director General of UNESCO. This determination was forwarded by the Department of State on September 3, 1954.

Mr. SOURWINE. Did the Board consider the case of Miss Helene Julie Van Gelder?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Mr. Chairman, reports of the investigation in the case of Miss Helene Julie Van Gelder contained information from various sources to the following effect:

That she was an active member of the Washington Bookshop, which has been designated as an organization under the domination and control of the Communist Party.

That she claimed at one time to have been employed by the Daily Worker, an organ of the Communist Party in New York.

That she was affiliated with a branch of a political party in 1946 which had been under the control and domination of the Communist Party since 1944 (American Labor Party, New York County or Brooklyn branch).

That she is a Communist sympathizer and apologist of the Soviet Union; that she attended language classes at the American-Russian Institute, an organization cited as subversive by the Attorney General.

Did Miss Van Gelder refuse to appear before the Board?

Mr. WALDMAN. She refused to appear, although every facility was offered her, and on September 16, 1954, there was an adverse determination.

Mr. SOURWINE. Did she subsequently cease to be employed by UNESCO?

Mr. WALDMAN. Yes; she was terminated.

(The summary of the case history of Helene Julie Van Gelder was marked "Exhibit No. 375," and reads as follows:)

EXHIBIT NO. 375

HELENE JULIE VAN GELDER

Miss Helene Julie Van Gelder was born November 9, 1907, at New York, N. Y. She attended Columbia University, New York, N. Y., taking one night class during the years 1926-27.

Miss Van Gelder indicated the following employments on her identification and personnel data form:

1926-July 1927: F. Friedman Diamond Trading Co., New York, N. Y.

Fall 1927-April 1930: National City Bank of New York, Brussels, Belgium.

May 1930-June 1934: Bank of International Settlements, Basel, Switzerland.

Three months in fall of 1934, a Scotsman importing dress lengths (vaguely recalls name as "McGregor"), Montevideo, Uruguay.

1935-October 1936: William Cooper & Nephews, Ltd., Montevideo, Uruguay.

Few weeks at the end of 1936: National City Bank of New York, Brussels, Belgium.

End of 1936-October 1940: American Embassy, Brussels, Belgium.

End of 1940 to end of 1944: Belgian Embassy, New York, N. Y., and Washington, D. C.

Beginning 1945-May 18, 1948: Agence France Presse, Washington, D. C., and New York, N. Y.

July 1948-June 20, 1955: United Nations Educational, Scientific, and Cultural Organization, Paris, France, in a secretarial capacity.

An interrogatory was issued to Miss Van Gelder by the International Organizations Employees Loyalty Board on February 8, 1954, and her reply thereto was received by the Board on March 10, 1954.

A hearing was scheduled for July 22, 1954, at Paris, France. In a telephone conversation with a representative of the International Organizations Employees Loyalty Board on the morning of July 21, 1954, Miss Van Gelder advised that she did not intend to appear at the hearing. By letter of July 22, 1954, she confirmed her telephone call of July 21 that she did not intend to appear for a hearing, stating, "I feel that, having replied to the written questionnaire and interrogatory submitted to me, I have provided all the facts, information, and answers I know and that, consequently, with all the data already on record, there is nothing further I could add."

An adverse advisory determination was made by the International Organizations Employees Loyalty Board on September 16, 1954, and was forwarded to the Secretary of State for transmission to the Director General of UNESCO. This determination was forwarded by the Department of State on September 21, 1954.

Mr. SOURWINE. Did the Board consider the case of Mrs. Irene Annette Wilcox?

Mr. WALDMAN. It did, sir.

Mr. SOURWINE. Mr. Chairman, reports of the investigation in the case of Mrs. Irene Annette Wilcox contained information from various sources to the following effect:

That prior to June 1942 for quite some time her residence in New York was a station for Communists entering and leaving the city.

That one of those who resided in the house with the employee was an Italian national who was the chief of the Italian Communist underground in European countries and one of the indefatigable builders of the Communist Party in Italy.

That the employee procured the release of this Communist when he was detained for illegal entry in the United States.

That she was the one who put up the bond for him to get in here in the first place.

That from 1940 through 1945 she worked as a research worker for a library owned by an alleged Communist Party member, most of whose employees were also Communist Party members.

That as recently as 1944 she was a member of the Sacco-Vanzetti Club of the Communist Political Association in New York.

That in 1940 she registered as an affiliate of the American Labor Party and continued in the section which was later described as under Communist domination and control, and that she continued that registration for several years after its exposure as a Communist organization.

That the man to whom she was married from June 1935 to May 1940 was registered as an affiliate of the Communist Party in 1936.

That the man to whom she was married from February 1943 until April 1945 was also a member of the Sacco-Vanzetti Club of the Communist Political Association in New York, as recently as June of 1944, and had previously registered in Spain for the Communist Party.

That, since going to Paris, she has been closely associated with and is an influential member of a group of American citizens who are alleged to be Communists.

Did Mrs. Irene Annette Wilcox refuse to appear before the Board?

Mr. WALDMAN. She refused to appear, did not appear, and on September 3, 1954, an advisory determination was filed.

Mr. SOURWINE. Did she subsequently cease to be employed by UNESCO?

Mr. WALDMAN. That is true.

(The summary of the case history of Irene Annette Wilcox was marked "Exhibit No. 376," and reads as follows:)

EXHIBIT No. 376

IRENE ANNENETTE WILCOX

Irene Annette Wilcox was born August 17, 1907, at Brooklyn, N. Y. She went to high school in Brooklyn, N. Y., from 1921 to 1922, and attended the Pratt Institute, School of Fine and Applied Arts, Brooklyn, N. Y., from 1925 to 1928.

At the time of the investigation, the employee was single. However, former husbands were listed as Russell Englis Melcher, Stephen Britten Runyon, and Lee Simon, all deceased.

During her adult life, Miss Wilcox has been employed as a copywriter with various firms in the New York City area. She has been employed as a program specialist with the United Nations Educational, Scientific, and Cultural Organization, such employment beginning January 1950. Her employment with UNESCO was terminated December 31, 1954.

Executive Order 10422 forms were received by the Office of International Administration on February 20, 1953, and the appropriate investigation was initiated on that date.

An interrogatory was issued by the International Organizations Employees Loyalty Board on February 15, 1954, and a followup letter was sent to the employee on April 15, 1954. Miss Wilcox acknowledged receipt of the interrogatory and the Board's letter of April 15, 1954, by letter dated April 30, 1954, received by the Board on May 3, 1954. In the letter of April 30, 1954, Miss Wilcox advised that "I find it incompatible with my status as an international civil servant employed by UNESCO" to reply to the interrogatory.

A hearing was scheduled for July 16, 1954, at Paris, France. Miss Wilcox, by letter dated July 14, 1954, acknowledged the Board's invitation to appear at the hearing and stated, "As you know, earlier this year I declined to reply to an interrogatory which you sent me. For the same reasons of conscience and principles, both as an American citizen and as an international civil servant, I must once again decline."

An adverse advisory determination was made by the International Organizations Employees Loyalty Board on September 3, 1954, and was forwarded to the Secretary of State for transmission to the Director General of UNESCO. This determination was forwarded by the Department of State on September 8, 1954.

Mr. SOURWINE. Mr. Chairman, all of these UNESCO people who were dismissed following the receipt of advisories from the Board were subsequently ordered reinstated, or in the alternative, ordered to receive large payments of indemnity.

Is that correct, Mr. Waldman?

Mr. WALDMAN. That is correct.

Mr. SOURWINE. The reinstatement contains this statement, that a charge of disloyalty to one member government is not necessarily inconsistent with the standards of integrity required of employees of United Nations organizations.

I have here the New York Times story with regard to the order, with the Geneva dateline. I ask that this go into the record at this point.

Senator JOHNSTON. It may become a part of the record.

(The New York Times article referred to was marked "Exhibit No. 377," and reads as follows:)

EXHIBIT NO. 377

[New York Times, October 30, 1955]

U. N. COURT BIDS UNESCO REINSTATE FOUR UNITED STATES "RISKS"

Special to the New York Times

GENEVA, October 29.—The United Nations' highest administrative tribunal ordered the United Nations Educational, Scientific, and Cultural Organization today to reinstate four Americans discharged for failure to cooperate with United States Loyalty Board investigations.

Failing reinstatement, the tribunal ordered UNESCO to pay each former employee 2 years' salary and the costs incurred in the legal proceedings leading up to today's decision. The indemnities totaled the equivalent of more than \$30,000.

The tribunal thus recognized that it had no power to enforce its reinstatement order. It does have the power, however, under the General Assembly resolution establishing the tribunal to force UNESCO to pay the indemnities.

The persons involved were Mrs. Kathryn Bernstein, Mrs. Kathryn Pankey, Miss Ruth Froma, and Miss Helene Van Gelder. All had refused to appear before a United States loyalty board, which met in Paris to review the records of employees of international organizations against whom some derogatory information had been filed.

In each case, the United States subsequently informed Dr. Luther H. Evans, Director General of UNESCO, that there was reasonable doubt as to the loyalty of the employee in question to the United States Government.

On the basis of these reports, the Director General refused to renew the Bernstein appointment and discharged the three other employees. He based his action in the Bernstein case on his authority to use his discretion with respect to renewing fixed-term appointments.

In the other cases, in which the appointments were of indeterminate duration, he based it on the staff regulations of the organization. One section makes failure to "conduct themselves at all times in a manner benefiting their status as international civil servants" grounds for discharge.

The tribunal found that the Director General himself had put the Bernstein case in the same category as the others by issuing a press release indicating that the grounds for nonrenewal were Mrs. Bernstein's refusal to appear before the loyalty board. The tribunal ruled that by giving the reasons for his action he in effect had waived the right to assert that it was merely to exercise his discretion.

The four decisions constitute a thorough examination and complete rejection of the principle that "disloyalty" to one member government is necessarily inconsistent with the "standards of integrity" required of employees of United Nations organizations.

RULING OF TRIBUNAL

The tribunal found that both in the case of Mrs. Bernstein, who held an appointment that automatically ended on February 14, 1955, and in the three other cases the Director General of UNESCO had exceeded his powers.

"The Director General cannot disassociate himself with the execution of the policy of the government authorities of any state member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred upon him solely for the purpose of directing that organization toward the achievement of its own, exclusively international, objectives," the tribunal said.

The tribunal declared that the attitude of the employees toward the United States Loyalty Board "in no way justifies the existence of serious doubts as to [their] integrity, judgment, and loyalty toward the defendant organization."

In the Bernstein case, the court went even further in this direction by ruling that even if the facts showed that an employee had been engaged in "militant political activities" prior to his joining an international organization, such facts were "irrelevant." Only "criminal or dishonorable acts" from an employee's past record should be considered, the tribunal said.

In all four decisions, the tribunal included a paragraph noting that if a Director General were upheld in dismissing these American employees he would be obliged to consider the act a precedent. Then, the tribunal said, he would

have to apply the same rule to all employees and discharge any employee to whom a national government objected.

The indemnities amount to about \$7,400 in the case of Mrs. Bernstein, about \$6,400 to Miss Van Gelder, \$10,800 to Miss Froma, and \$4,600 to Mrs. Pankey. In each case, the court awarded \$300 in costs and 4 percent interest on the indemnities from June 20, 1955.

The members of the court were Albert Deveze, of Belgium, president; Jonkheer van Rijckevorsel and Iasson Stavrophlous.

Mr. SOURWINE. The decision, Mr. Chairman, contained this statement:

Loyalty toward a state is entirely different from the idea of integrity of the body of the staff regulations and rules of UNESCO.

I will ask you, Mr. Waldman—you heard the testimony of the previous witness with regard to nationals of other countries holding the interests of their countries very close to their hearts—you did hear that testimony?

Mr. WALDMAN. Yes.

Mr. SOURWINE. Do you feel there is anything incompatible with service on an international organization, as an employee of an international organization, with being loyal to the Government of the United States or the government of the country of which the employee is a national?

Mr. WALDMAN. I can be loyal to the United States and be a good international civil servant.

Mr. SOURWINE. That is the whole basis of the program that is the justification of the Executive order under which this program is operated, is it not?

Mr. WALDMAN. That is right.

But as I see it, it is the desire of the United States to make as certain as possible that its citizens are loyal. And I think that there is a side of this program which perhaps has been overlooked, at least not emphasized. And that is, it is a good thing to know that, out of the thousands of people who work there, that the vast majority of them could stand up to a loyalty or security check and come through it all right.

Mr. SOURWINE. Mr. Chairman, I have here the texts of the orders of the International Labor Organization administrative tribunal which ordered the payment of large sums to the individuals in question. I would like to ask that these decisions be printed in the record at this point.

We are a little late, but I think we are making here the first and probably the only complete chronological record in this case, and it would be well if they were ordered in there.

Senator JOHNSTON. This will be ordered in the record.

The decisions referred to were marked "Exhibits Nos. 378" and 378-A through F, and reads as follows:)

EXHIBIT NO. 378

[Unofficial translation]

INTERNATIONAL LABOUR ORGANISATION

ADMINISTRATIVE TRIBUNAL

Judgment No. 21

FIFTH ORDINARY SESSION (PART II), OCTOBER 1955

Sitting of 29 October 1955

IN THE MATTER OF MRS. KATHRYN BERNSTEIN AGAINST UNITED NATIONS
EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANISATION

The Administrative Tribunal of the International Labour Organisation, Having had referred to it a complaint submitted against the United Nations Educational, Scientific, and Cultural Organisation on 28 June 1955 by Mrs. Kathryn Bernstein, a former official of that Organisation, asking that the Tribunal be pleased to rescind the decision of 18 February 1953 and to enjoin the Director General to renew her contract for an indefinite period, or in default of reinstatement to pay to the complainant by way of damages a global sum equivalent to three years gross salary, namely, 4,665,000 French francs, together with interest at 4 per centum from the date of termination until payment of the said damages,

Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 22 July 1955;

Having had referred to it a statement submitted in his own name on 3 October 1955 by M. Pierre Henquet, Chairman of the Staff Association of UNESCO;

Considering the pleadings exchanged by the representatives of the parties during the hearing;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organisation in August 1951;

(2) At the time when the decision complained of was taken the complainant was the holder of a contract of one year's duration expiring on 14 February 1955;

(3) In February 1953 the complainant received from the representative of the United States to the defendant Organisation a questionnaire to be completed and returned in application of "Executive Order No. 10,422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations," whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant answered this questionnaire;

(4) In March 1954 the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10,459 of 2 June 1953 amending Executive Order No. 10,422 of 9 January 1953, interrogatory to which the complainant did not, however, reply;

(5) In June 1954 the complainant received an invitation to appear as from 9 July 1954 before the Loyalty Board meeting at the United States Embassy in Paris;

(6) By letter dated 13 July 1954 the complainant informed the Director General of the reasons of conscience on which she based her refusal to appear;

(7) By letter dated 13 August 1954 the Chief of the Bureau of Personnel and Management recalled to the complainant that her appointment would expire on 14 February 1955 and informed her that she would not be offered a new contract. By letter dated 30 August 1954 the Director General confirmed the above, stating *inter alia*:

"* * * In the light of what I believe to be your duty to the Organization, I have considered very carefully your reasons for not appearing before the International

Employees Loyalty Board where you would have had an opportunity of dispelling suspicions and disproving allegations which may exist regarding you.

"It is with a deep sense of my responsibilities that I have come to the conclusion that I cannot accept your conduct as being consistent with the high standards of integrity which are required of those employed by the Organization.

"I have, therefore, to my regret, to inform you that I shall not offer you a further appointment when your present appointment expires * * *."

(8) By letter dated 31 August 1954 the complainant requested the Director General to reconsider his decision;

(9) The Chief of the Bureau of Personnel and Management informed the complainant in a letter dated 7 September 1954 of the Director General's refusal to do so;

(10) By a letter of 10 September 1954 the Director General received a communication of the report of the Loyalty Board (advisory determination), in which it was stated:

"It has been determined on all the evidence, that there is a reasonable doubt as to the loyalty of Kathryn Bernstein to the Government of the United States" and that "this determination, together with the reasons therefor, in as much detail as security considerations permit, are submitted for your use in exercising your rights and duties with respect to the integrity of the personnel employed by the United Nations Educational, Scientific, and Cultural Organization";

(11) On 23 September 1954 the complainant submitted an appeal to the UNESCO Appeals Board asking that the above-mentioned decision should be rescinded.

(12) On 11 February 1955 the Appeals Board by a majority expressed the opinion that the decision should be rescinded.

(13) By a letter dated 18 February 1955 the Director General of UNESCO informed the Chairman of the Appeals Board that he could not act in accordance with this opinion.

(14) The complainant having been transferred to hospital on 11 February 1955 consequently could not take cognizance of the foregoing decision until leaving hospital on 28 March 1955;

(15) Before the Appeals Board had taken its decision the Director General, on 28 September 1954, set up a Special Advisory Board consisting of members of the staff whose task was to "to examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director General and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations";

(16) By reason of her ill health the complainant was not questioned by the Advisory Board at a sitting, but by the Chief of the Bureau of Personnel and Management;

(17) On 10 December 1954 the complainant was placed on special leave. The complainant having brought a further appeal against this decision before the UNESCO Appeals Board, the said Appeals Board on 8 June 1955 stated the opinion that the said decision should be withdrawn, the Director General on 24 June 1954 rejected this advice. The complainant notified the Tribunal that in view of her termination she did not intend to formally appeal to the Tribunal against this second final decision, but she requested that this factor be taken into consideration as an issue of moral prejudice;

ON RECEIVABILITY:

Considering that whereas the complaint was not submitted within the period of time of 90 days provided in the Regulations running from the date on which the decision impugned was taken (18 February 1955), such was due to the transfer of the complainant to hospital on 11 February 1955;

That whereas the complainant could only take cognizance of this decision at the conclusion of her hospitalization, namely, 28 March 1955, she brought her complaint in due form within ninety days from that date;

Considering furthermore that the defendant Organization does not take issue against these facts and does not plead nonreceivability following the late notification of the complaint;

Considering that the delay is clearly due to *vis major* and that, besides, the complainant fulfilled the requirements of the ninety-day period from the time that it was physically possible for her to introduce an appeal;

That under these circumstances the complaint must therefore be considered as receivable.

ON COMPETENCE:

Considering that the character of a fixed-term appointment is in no way that of a probationary appointment, that is to say of a trial appointment;

That while it is the case that UNESCO Staff Rule 104.6 issued in application of the Staff Regulations stipulates that: "A fixed-term appointment shall expire, without notice or indemnity, upon completion of the fixed term * * *", this text only deals with the duration of the appointment and in no way bars the Tribunal from being seized of a complaint requesting the examination of the validity of the positive or negative decision taken regarding the renewal of the said appointment;

That it is established in the case that the Director General by a general measure, of which the whole staff was informed on 6 July 1954, indicated that staff in the general service category who had given satisfactory service and whose services were required would receive an indefinite appointment unless otherwise provided in their terms of appointment.

That the complainant, having been made the object of an exception to this general measure, holds that the Director General could not legitimately thus make an exception of her on the sole ground which he invoked against her as justification for the view that she did not possess the quality of integrity recognised in those of her colleagues whose contracts had been renewed, and in the absence of any contestation of her qualities of competence and efficiency;

That the complainant requests that this decision be rescinded and, alternatively, that an indemnity be granted:

Considering that the question is thus a dispute concerning the interpretation and application of the Staff Regulations and Rules of the defendant Organisation;

That by virtue of Article II, paragraph 1, of its Statute, and in accordance with the precedents established by the Tribunal in Judgments Nos. 17, 18, and 19 dated 26 April 1955, the Tribunal is competent to hear the said dispute;

ON THE SUBSTANCE:

Considering that the facts in the case are similar the Tribunal considers itself bound to follow the precedents established in the above-mentioned Judgments Nos. 17, 18, and 19;

A. Considering that the defendant Organisation holds that the renewal or the nonrenewal of a fixed-term appointment depends entirely on the personal and sovereign discretion of the Director General who is not even required to give his reason therefor;

Considering that if this were to be so, any unmotivated decision would not be subject to the general legal review which is vested in the Tribunal, and would be liable to become arbitrary;

Considering that, in fact, it may be conceived that this might exceptionally be the case when, for example, it is a matter of assessing the technical suitability of the person concerned for carrying out his duties;

Considering, however, that in this matter the question does not affect the issue inasmuch as the Director General has not only given the reason for the decision taken by him but has also made it public in a communiqué issued to the press;

That this reason is based solely on the refusal of the complainant to cooperate in the measures of investigation provided in respect of certain of its nationals by the Government of the State of which she is a citizen, and in particular on her refusal to appear before a commission invested by that Government with the power to investigate her loyalty to that State;

That the Director General declares that he concludes from this that he can no longer retain his confidence in the complainant and offer her a new appointment, her attitude being incompatible with the high standards of integrity required of those who are employed by the Organisation and being, furthermore, capable of harming the interests of the Organisation;

Considering in relation hereto that it is necessary expressly to reject all uncertainty and confusion as to the meaning of the expression "loyalty towards a State" which is entirely different from the idea of "integrity" as embodied in the Staff Regulations and Rules; and that this is evident and requires no further proof;

B. Considering that if the Director General is granted authority not to renew a fixed-term appointment and so to do without notice or indemnity, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organisation;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Article 1.4 of the Staff Regulations of the defendant Organisation, as it stood at the moment when the complainant was notified that her appointment would not be renewed, was as follows:

"Members of the Secretariat shall conduct themselves at all times in a manner consonant with the good repute and high purposes of the Organization and their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties. They shall avoid any action, and in particular any kind of public pronouncement, which would adversely reflect upon their status. While they are not expected to give up religious or political convictions or national sentiment, they shall at all times exercise the reserve and tact incumbent upon them by reason of their international responsibilities."

Considering that, in thus clearly establishing the entire freedom of conscience recognised to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever:

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

C. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him.

Considering, however, that in respect of the invitation to appear before the Loyalty Board, it is established that the complainant simply informed the Director General after the date on which she had been called on to appear, of her decision not to appear:

Considering that it is desirable to determine whether the attitude adopted by the complainant in this respect may be considered as justifying the loss of confidence alleged by the Director General;

D. Considering that it is undoubtedly true that if the Director General has been informed that a member of his staff has acted in a manner prohibited by Article 1.4 of the Staff Regulations, the Director General has a duty to check the accuracy of such information either himself or through persons appointed by him from within his Organisation, in order that he may take decisions or even sanctions, if necessary, in the full knowledge of the facts:

That in this light the enquiry procedure within the Secretariat to which the Director General resorted in the present case in full exercise of his authority can in no sense be subject to criticism; that it is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation: that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director General would "be studied with care" and that he would "certainly give every consideration to it, in the light of the Constitution of UNESCO and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of UNESCO":

Considering that it is quite different when the ground for complaint of the Director General is based solely on the refusal of the official to participate in measures of verbal or written enquiry to which his national Government considers it necessary to subject him;

That the Director General of an international organization cannot associate himself with the execution of the policy of the government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that organization toward the achievement of its own, exclusively international, objectives;

That this duty of the Director General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation, in the following terms:

"The responsibilities of the Director General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials. Each State

Member of the Organization undertakes to respect the international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties."

Considering that the fact that in this case the matter involved is an accusation of disloyalty brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realize that if any one of the seventy-four States and Governments involved in the defendant Organisation brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an enquiry in similar or analogous conditions, the attitude adopted by the Director General would constitute a precedent obliging him to lend his assistance to such enquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence, on the basis of any opposition by the person concerned to the action of his national Government;

That if this were to be the case there would result from all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organisation;

Considering therefore that the only ground for complaint adduced by the Director General to justify the application to the complainant of an exception to the general rule of renewal of appointments, that is to say her opposition to the investigations of her own Government, is entirely unjustified;

Considering that it is in vain that it is alleged that the terms of renewal set forth in the Director General's circular of July 6, 1954, provide that the services of the person concerned must be needed; that this expression cannot mean that the person concerned must be irreplaceable, in that no successor can be found; that it means only that the requirements of the service to which the person concerned is assigned must be permanent and that the said person must give full satisfaction therein and otherwise in all manner in the performance of his or her duties; that on this last point the appreciations contained in the annual reports of the complainant are entirely laudatory:

Considering that it results therefrom that the decision taken must be rescinded, but that nevertheless the Tribunal does not have the power to order the renewal of a fixed-term appointment, which requires a positive act of the Director General over whom the Tribunal has no hierarchical authority;

That in the absence of such a power and unless the Director General should consider himself in a position to reconsider his decision in this manner, the Tribunal is nonetheless competent to order equitable reparation of the damage suffered by the complainant by reason of the discriminatory treatment of which she was the object;

F. Considering that it results from the documents produced by the parties during the hearing that the enquiry made by order of the Director General himself within the defendant Organisation, the legitimate and regular character of which has been shown above, did not bring any evidence to show that the complainant failed in her duties, as defined in Article 1.4 of the Regulations, during the period that she was an official of the defendant Organisation;

That this Special Board considered that it could find no evidence either in the reports of the Loyalty Board or as a result of its own enquiries that the complainant, during her employment in the Secretariat of the defendant Organisation, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

Considering that it is irrelevant to seek whether or not the complainant was engaged in militant political activities before being appointed to the international service and at a time when she was not bound by the obligations involved in joining this service, unless it has been proved that she had been guilty of dishonourable or criminal acts (*actes déshonorants ou criminels*):

That any accusation of this nature could only be admitted if drawn up both in due form and with all the precision required to ensure respect for the right of the accused person to defend herself,

That it is not so in this case;

Considering that it has been shown above that the attitude of the complainant toward the Loyalty Board in no way justifies the existence of serious doubts as to her integrity, judgment, and loyalty towards the defendant Organisation;

That it does not therefore appear that the complainant placed her own interests above the true interest of the Organisation, which interest consists above all in safeguarding *erga omnes* its independence and impartiality;

ON PREJUDICE

Considering that an official who combines all the necessary qualities has a legitimate expectancy of being offered a new appointment in the position which he or she occupied, and that this expectancy was fulfilled for all the persons concerned, with the exception of a certain number, of whom the complainant;

That not only is such an almost absolute *quod plerunque fit* but also that in thus acting the Administration of the defendant Organisation has as its objective to create a permanent body of officials experienced in their duties, who are destined to follow a career in the Organisation concerned;

That the decision not to renew the appointment is one which should not only be rescinded in the present case, but also constitutes a wrongful exercise of powers and in abuse of rights which consequently involves the obligation to make good the prejudice resulting therefrom; that this prejudice was aggravated by the publicity given to the withdrawal of confidence as being due to lack of integrity, this ground having been given in a press communiqué issued by the defendant Organisation, without it being possible seriously to maintain the view that there could have existed the slightest doubt as to the identity of the persons to which the said communiqué referred;

Considering that it is to no purpose that they have been reproached with having communicated the measures of which they were the object of the Staff Association recognised by the defendant Organisation, as the upshot of a procedure to which the said Association was a party with the knowledge and consent of the Director-General himself;

Considering that should the defendant Organisation not rescind the decision taken, there should be ordered the payment of damages in order to compensate the complainant for material and moral prejudice caused to her by the exception of which she was the object;

That in evaluating such prejudice account may not be taken, as the complainant requests, of her placing on special leave with salary on 10 December 1954, the Director General having the right within his powers to take such a measure, and which may not be considered in the circumstances as having increased the prejudice suffered;

That the state of health of the complainant may also not be taken into consideration since it is not possible for the Tribunal to determine in what measure her state of health, which was previously delicate, may have been aggravated by the measures taken against her, and since in any case she is at present enjoying the entitlements of the Sickness Fund and continues to have the right to an eventual invalidity benefit;

ON THE GROUNDS AS AFORESAID

THE TRIBUNAL.

Rejecting any wider or contrary conclusions,

Declares the complaint to be receivable as to form;

Declares that it is competent;

Orders the decision taken to be rescinded and declares in law that it constitutes an abuse of rights causing prejudice to the complainant;

In consequence, should the defendant not reconsider the decision taken and renew the complainant's appointment, orders the said defendant to pay to the complainant a sum equal to two years' net salary, excluding nonresident's allowance, that is to say 2,600,000 French francs, together with interest at 4 per centum from 15 February 1955;

Orders the defendant Organisation to pay to the complainant the sum of \$300 by way of participation in the costs of her defence;

PRONOUNCING on the application to intervene made by M. Henquet;

Considering that such intervention is receivable in so far as it is made by M. Henquet in his own name;

That in this instance the fact that the intervener holds an indeterminate appointment and not a fixed-term appointment does not prevent the present dispute from bearing on principles applicable to the legal position of the whole staff;

Considering that the intervener is however entitled to bring into issue solely his own interest in the case;

Considering that the intervention is founded only in so far as recognized by this judgment;

Orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of \$40.

In witnesses of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 29 October 1955, by his Excellency M. Albert Devèze, President Jonkheer van Rijckevorsel, Judge, Acting Vice President, and M. Iasson Stavropoulos, Deputy Judge called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

ALBERT DEVÈZE.
A VAN RIJCKEVORSEL.
IASSON STAVROPOULOS.
FRANCIS WOLF.

EXHIBIT No. 378-A

[Unofficial translation]

INTERNATIONAL LABOUR ORGANISATION

ADMINISTRATIVE TRIBUNAL

Judgment No. 17

ORDINARY SESSION OF APRIL 1955

Sitting of 26 April 1955

IN THE MATTER OF MR. PETER DUBERG AGAINST UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANISATION

The Administrative Tribunal of the International Labour Organisation,

Having had referred to it a complaint submitted against the United Nations Educational, Scientific and Cultural Organisation on 5 February 1955 by Mr. Peter Duberg, an official of that Organisation, asking that the Tribunal be pleased to rescind the decision taken by the Director General on 13 August 1954 and to enjoin the Director General to renew the contract of the complainant and to pay him the sum of one franc in respect of damages and legal costs;

Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 19 March 1955;

Having had referred to it a statement submitted in his own name of 20 April 1955 by M. Pierre Henquet, Chairman of the Staff Association of UNESCO;

Considering the pleadings exchanged by the representatives of the parties during the hearing and in particular the statement by the complainant that his alternative claim for damages would amount to the sum of \$67,300;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up his duties with the defendant Organisation on 2 June 1949;

(2) At the time when the decision complained of was taken, the complainant was the holder of a fixed-term contract of one year's duration expiring on 31 December 1954;

(3) In February 1953 the complainant received from the representative of the United States to the defendant Organisation a questionnaire to be completed and returned in application of "Executive Order No. 10,422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary-General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations," whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant did not answer this questionnaire;

(4) In February 1954, the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10,459 of 2 June 1953, amending Executive Order No. 10,422 of 9 January 1953, interrogatory to which the complainant also did not reply;

(5) In June 1954, the complainant received an invitation, dated 18 June, to appear on 15 July before the Loyalty Board meeting at the United States Embassy in Paris;

(6) By letter dated 13 July 1954, the complainant informed the Director General of the reasons of conscience on which he based his refusal to appear;

(7) By letter dated 13 August 1954, the Director General informed the complainant that he would not offer him a new contract on the expiry of the contract at that time in force. This letter stated, *inter alia*:

"* * * In the light of what I believe to be your duty to the Organisation, I have considered very carefully your reasons for not appearing before the International Employees Loyalty Board where you would have had an opportunity of dispelling suspicions and disproving allegations which may exist regarding you.

"It is with a deep sense of my responsibilities that I have come to the conclusion that I cannot accept your conduct as being consistent with the high standards of integrity which are required of those employed by the Organization.

"I have, therefore, to my regret, to inform you that I shall not offer you a further appointment when your present appointment expires * * *";

(8) By a letter dated 23 August 1954, the complainant requested the Director General to reconsider his decision;

(9) The Chief of the Bureau of Personnel and Management informed the complainant in a letter dated 30 August 1954 of the Director General's refusal to do so;

(10) By a letter of 10 September 1954, the Director General received communication of the report of the Loyalty Board (advisory determination) in which it was stated that "it has been determined on all the evidence that there is a reasonable doubt as to the loyalty of Norwood Peter Duberg to the Government of the United States" and that "this determination, together with the reasons therefor, in as much detail as security considerations permit, are submitted for your use in exercising your rights and duties with respect to the integrity of the personnel employed by the United Nations Educational, Scientific, and Cultural Organization";

(11) The complainant was himself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 10 September 1954 and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director General of the defendant Organization;

(12) On 23 September 1954 the complainant submitted an appeal to the UNESCO Appeals Board asking that the above-mentioned decision should be rescinded;

(13) On 2 November 1954 the Appeals Board, by a majority opinion, expressed the opinion that the decision should be rescinded;

(14) By a letter dated 25 November 1954, the Director General informed the Chairman of the Appeals Board that he could not act in accordance with this opinion;

(15) Before the Appeals Board had taken its decision, the Director General on 28 September 1954 set up a Special Advisory Board consisting of members of the staff, whose task was to "examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director General and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations";

(16) The complainant appeared and explained his position before this Special Advisory Board. However, in a letter to the Director General dated 4 October 1954, he expressed certain reservations to the procedure followed and asked for any measures affecting him which might result from this procedure to be cancelled;

(17) By a letter dated 11 October 1954, the Chief of the Bureau of Personnel and Management informed the complainant of the rejection of this request;

ON COMPETENCE:

Considering that the character of a fixed-term appointment is in no way that of a probationary appointment, that is to say, of a trial appointment;

That while it is the case that UNESCO Staff Rule 104.6, issued in application of the Staff Regulations, stipulates that "A fixed-term appointment shall expire, without notice or indemnity, upon completion of the fixed term * * *", this next only deals with the duration of the appointment and in no way bars the Tribunal from being seized of a complaint requesting the examination of the validity of the positive or negative decision taken regarding the renewal of the said appointment;

That it is established in the case that the Director General, by a general measure of which the whole staff was informed on 6 July 1954, "decided that all professional staff members whose contracts expire between now and 30 June 1955 (inclusive) and who have achieved the required standards of efficiency,

competence, and integrity, and whose services are needed, will be offered one-year renewals of their appointments";

That the complainant, having been made the object of an exception to this general measure, holds that the Director General could not legitimately thus make an exception of him on the sole ground which he invoked against him as justification for the view that he did not possess the quality of integrity recognised in those of his colleagues whose contracts had been renewed and in the absence of any contestation of his qualities of competence and efficiency;

That the complainant requests that this decision be rescinded and, alternatively, that an indemnity be granted;

Considering that the question is thus a dispute concerning the interpretation and application of the Staff Regulations and Rules of the defendant Organisation;

That by virtue of Article II, paragraph 1, of its Statute, the Tribunal is competent to hear the said dispute;

ON THE SUBSTANCE:

A. Considering that the defendant Organisation holds that the renewal or the nonrenewal of a fixed-term appointment depends entirely on the personal and sovereign discretion of the Director General who is not even required to give his reason therefor;

Considering that if this were to be so, any unmotivated decision would not be subject to the general legal review which is vested in the Tribunal, and would be liable to become arbitrary;

Considering that, in fact, it may be conceived that this might exceptionally be the case when, for example, it is a matter of assessing the technical suitability of the person concerned for carrying out his duties;

Considering, however, that in this matter the question does not affect the issue inasmuch as the Director General has not only given the reason for the decision taken by him but has also made it public in a communiqué issued to the press;

That this reason is based solely on the refusal of the complainant to cooperate in the measures of investigation provided in respect of certain of its nationals by the Government of the State of which he is a citizen, and in particular on his refusal to appear before a commission invested by that Government with the power to investigate his loyalty to that State;

That the Director General declares that he concludes from this that he can no longer retain his confidence in the complainant and offer him a new appointment, his attitude being incompatible with the high standards of integrity required of those who are employed by the Organisation and being, furthermore, capable of harming the interests of the Organisation;

Considering in relation hereto that it is necessary expressly to reject all uncertainty and confusion as to the meaning of the expression "loyalty towards a State" which is entirely different from the idea of "integrity" as embodied in the Staff Regulations and Rules; and that this is evident and requires no further proof;

B. Considering that if the Director General is granted authority not to renew a fixed-term appointment and so to do without notice or indemnity, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organisation;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Article 1.4 of the Staff Regulations of the defendant Organisation, as it stood at the moment when the decision complained of was taken, was as follows:

"Members of the Secretariat shall conduct themselves at all times in a manner consonant with the good repute and high purposes of the Organisation and their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties. They shall avoid any action, and in particular any kind of public pronouncement, which would adversely reflect upon their status. While they are not expected to give up religious or political convictions or national sentiments, they shall at all times exercise the reserve and tact incumbent upon them by reason of their international responsibilities."

Considering that, in thus clearly establishing the entire freedom of conscience recognised to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

C. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board, it is established that the complainant approached the Director General only at a late date, so that the latter would not have been able to give him advice in sufficient time;

Considering that it is desirable to determine whether the attitude adopted by the complainant in this respect may be considered as justifying the loss of confidence alleged by the Director General;

D. Considering that it is undoubtedly true that if the Director General has been informed that a member of his staff has acted in a manner prohibited by Article 1.4 of the Staff Regulations, the Director General has a duty to check the accuracy of such information either himself or through persons appointed by him from within his Organisation, in order that he may take decisions or even sanctions, if necessary, in the full knowledge of the facts;

That in this light the enquiry procedure within the Secretariat to which the Director General resorted in the present case in full exercise of his authority can in no sense be subject to criticism; that it is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation; that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director General would "be studied with care" and that he would "certainly give every consideration to it, in the light of the Constitution of UNESCO and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of UNESCO";

That the objection raised in this regard by the complainant is totally unfounded;

E. Considering that it is quite different when the ground for complaint of the Director General is based solely on the refusal of the official to participate in measures of verbal or written enquiry to which his national government considers it necessary to subject him;

That the Director General of an international organisation cannot associate himself with the execution of the policy of the government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that organisation towards the achievement of its own, exclusively international, objectives;

That this duty of the Director General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation, in the following terms:

"The responsibilities of the Director General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the organization. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organization undertakes to respect the international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties."

Considering that the fact that in this case the matter involved is an accusation of disloyalty brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realise that if any one of the seventy-two States and Governments involved in the defendant Organisation brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an enquiry in similar or analogous conditions, the attitude adopted by the Director General would constitute a precedent obliging him to lend his assistance to such enquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence, on the basis of any opposition by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been the intention of those who drew up the Constitution of the defendant Organisation;

Considering therefor that the only ground for complaint adduced by the Director General to justify the application to the complainant of an exception to the general rule of renewal of appointments, that is to say his opposition to the investigations of his own Government, is entirely unjustified;

Considering that it is in vain that it is alleged that the terms of renewal set forth in the Director General's circular of 6 July 1954, after enumeration of the standards required, provide that the services of the person concerned must be needed; that this expression cannot mean that the person concerned must be irreplaceable, in that no successor can be found; that it means only that the requirements of the service to which the person concerned is assigned must be permanent and that the said person must give full satisfaction therein and otherwise in all manner in the performance of his duties; that on this last point the appreciations contained in the annual reports of the complainant are entirely laudatory;

Considering that it results therefrom that the decision taken must be rescinded; but that nevertheless the Tribunal does not have the power to order the renewal of a fixed-term appointment, which requires a positive act of the Director General over whom the Tribunal has no hierachial authority;

That in the absence of such a power and unless the Director General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the discriminatory treatment of which he was the object;

F. Considering that it results from the documents produced by the parties during the hearing that the enquiry made by order of the Director General himself within the defendant Organisation, the legitimate and regular character of which has been shown above, did not bring any evidence to show that the complainant failed in his duties, as defined in Article 1.4 of the Regulations, during the period that he was an official of the defendant Organisation;

That this Special Board considered that it could find no evidence either in the reports of the Loyalty Board or as a result of its own inquiries that the complainant, during his employment in the Secretariat of the defendant Organisation, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

Considering that it is irrelevant to seek whether or not the complainant was engaged in militant political activities before being appointed to the international service and at a time when he was not bound by the obligations involved in joining this service, unless it has been proved that he had been guilty of dishonourable or criminal acts (*actes déshonorants ou criminels*);

That any accusation of this nature could only be admitted if drawn up both in due form and with all the precision required to ensure respect for the right of the accused person to defend himself;

That it is not so in this case;

Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to his integrity, judgment and loyalty towards the defendant Organisation;

That it does not therefore appear that the complainant placed his own interests above the true interest of the Organisation, which interest consists above all in safeguarding *erga omnes* its independence and impartiality;

ON PREJUDICE:

Considering that an official who combines all the necessary qualities has a legitimate expectancy of being offered a new appointment in the position which he occupied, and that this expectancy was fulfilled for all the persons concerned, with the exception of a certain number, of whom the complainant;

That not only is such an almost absolute *quod plerumque* fit but also that in thus acting the Administration of the defendant Organisation has as its objective to create a permanent body of officials experienced in their duties, who are destined to follow a career in the Organisation concerned;

That the decision not to renew the appointment is one which should not only be rescinded in the present case, but also constitutes a wrongful exercise of powers and an abuse of rights which consequently involves the obligation to make

good the prejudice resulting therefrom; that this prejudice was aggravated by the publicity given to the withdrawal of confidence as being due to lack of integrity, this ground having been given in a press communiqué issued by the defendant Organisation, without it being possible seriously to maintain the view that there could have existed the slightest doubt as to the identity of the persons to which the said communiqué referred;

Considering that it is to no purpose that they have been reproached with having communicated the measures of which they were the object to the Staff Association recognised by the defendant Organisation, as the upshot of a procedure to which the said Association was a party with the knowledge and consent of the Director-General himself;

That redress will be ensured *ex aequo et bono* by the granting to the complainant of the sum set forth below;

Considering that, on the one hand, there should be granted to the complainant the amount of the salary which he would have received had he not been subject to the measure of exception of which he complains, that is to say one year's basic salary;

That, on the other hand, there should be granted to him a second year's basic salary in order to compensate for the moral prejudice and in particular the difficulties which he will encounter in seeking new means of subsistence;

That, in this calculation, there should be added to the salary the statutory amount of children's allowance;

ON THE GROUNDS AS AFORESAID

THE TRIBUNAL,

Rejecting any wider or contrary conclusions,

Declares the complaint to be receivable as to form;

Declares that it is competent;

Orders the decision taken to be rescinded and declares in law that it constitutes an abuse of rights causing prejudice to the complainant;

In consequence, should the defendant not reconsider the decision taken and renew the complainant's appointment, orders the said defendant to pay to the complainant the sum of \$15,500, plus children's allowances for two years, the whole together with interest at 4 per centum from 1 January 1955;

Orders the defendant Organisation to pay to the complainant the sum of \$300 by way of participation in the costs of his defense:

PRONOUNCING on the application to intervene made by M. Henquet;

Considering that such intervention is receivable in so far as it is made by H. Henquet in his own name;

That in this instance the fact that the intervener holds an indeterminate appointment and not a fixed-term appointment does not prevent the present dispute from bearing on principles applicable to the legal position of the whole staff;

Considering that the intervention is founded, insofar as recognized by the resent judgment, orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of \$40.

In witness of which judgment, pronounced in public sitting on 26 April 1955 by His Excellency H. Albert Devèze, President, Professor Georges Scelle, Vice President, and Joukheer van Rijckevorsel, Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Wolf, Registrar of the Tribunal.

ALBERT DEVÈZE.
GEORGES SCELLE.
A. VAN RAJCKEVORSEL.
FRANCIS WOLF.

EXHIBIT No. 378-B

[Unofficial translation]

INTERNATIONAL LABOUR ORGANISATION

ADMINISTRATIVE TRIBUNAL

Judgment No. 22

FIFTH ORDINARY SESSION (PART II) GENEVA, OCTOBER 1955

Sitting of 29 October 1955

IN THE MATTER OF MISS RUTH FROMA AGAINST UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

The Administrative Tribunal of the International Labour Organisation,

Having had referred to it a complaint submitted against the United Nations Educational, Scientific, and Cultural Organization on 14 September 1955 by Miss Ruth Froma, a former official of that Organization, asking that the Tribunal be pleased to rescind the decision taken on 20 June 1955 terminating the complainant's appointment and, in default of reinstatement, to enjoin the defendant Organization to pay to the complainant by way of damages a sum equivalent to three years salary together with an indemnity of \$10,000;

Considering the memorandum of reply to the said complaint submitted by the defendant Organization on 6 October 1955;

Having had referred to it a statement submitted in his own name, in his status as an official of the defendant Organization, holder of an indeterminate appointment, on 3 October 1955 by M. Pierre Henquet, Chairman of the Staff Association;

Having heard, on oath, in public sitting on 20 October 1955 Edward Joseph Phelan, witness cited by the complainant, whose deposition, certified true, is in the dossier;

Considering the pleadings exchanged by the representatives of the parties during the hearing;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organization on 2 September 1949;

(2) At the time when the decision complained of was taken the complainant was the holder of an indeterminate appointment, subject to a five-year review on 1 October 1957;

(3) In February 1953 the complainant received a questionnaire to be completed and returned in application of "Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations" whose provisions apply to the defendant Organization by virtue of Part III of the Order in question; the complainant completed this questionnaire;

(4) In March 1954 the complainant received an interrogatory from the International Organizations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10459 of 2 June 1953 amending Executive Order No. 10422 of 9 January 1953, interrogatory to which the complainant did not however reply;

(5) In July 1954, the complainant received an invitation to appear as from 15 July 1954 before the Loyalty Board, meeting at the United States Embassy in Paris;

(6) By letter dated 12 July 1954 the complainant informed the Director General of the reasons of conscience on which she based her refusal to appear;

(7) Subsequently the Director General received communication of the report of the Loyalty Board (advisory determination) dated 26 August 1954 in which it was stated that:

"* * * the Board concludes that on all the evidence there is a reasonable doubt as to the loyalty of Ruth Froma to the Government of the United States";

(8) The complainant was herself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 10 September 1954, and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director General of the defendant Organization;

(9) On 28 September 1954 the Director General set up a Special Advisory Board consisting of members of the staff whose task was to "examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director General and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations"; the complainant appeared and explained her position before this Special Advisory Board;

(10) The complainant was informed by a note dated 10 December 1954 that she was suspended from her functions with pay until further notice in application of Rule 109.11 of the Staff Rules;

(11) By a note dated 16 December 1954 the complainant requested the Director General to reconsider his decision;

(12) The Director General declined to reconsider his decision and the complainant submitted an appeal to the UNESCO Appeals Board on 10 February 1955, asking that the decision to suspend her be rescinded;

(13) On 27 June 1955 the Appeals Board unanimously expressed the opinion that the decision of the Director General dated 10 December 1954 by which the complainant had been suspended from her functions with pay should be rescinded;

(14) Before the Appeals Board had taken its decision the Special Advisory Board, referred to in paragraph 9.1.1 of the Staff Regulations and appointed by the Director General in accordance with Rule 109.10 of the Staff Rules, heard the complainant in March 1955;

(15) By letter dated 20 June 1955 the Director General informed the complainant that her appointment was terminated on the same date. This letter stated *inter alia*:

"The Special Advisory Board which I appointed in accordance with Staff Regulation 9.1.1 has submitted its report to me on the matter concerning you.

"I have studied this report very carefully.

"I regret to inform you that I have come to the conclusion that your conduct indicated that you do not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations.

"I have come to this conclusion because of the attitude you have adopted to the investigation undertaken by the United States Government under Executive Order 10422, as amended by Executive Order 10459, which found its principal expression in your refusal to respond to the invitation to appear, in July 1954, before the International Organizations Employees Loyalty Board of the United States Civil Service Commission, and because, at no time up to this date, have you taken any steps or shown any desire to repair, or at least to mitigate, the harm done to the Organization by your refusal to appear before the Board.

"You could not have failed to realize that the attitude you have adopted gravely prejudiced the interests of the Organization.

"I have indicated, and in particular, at the Eighth Session of the General Conference, the seriousness of the consequences of such an attitude.

"In adopting and maintaining such an attitude, you have shown that you are not willing to regulate your conduct with the interests of the Organization only in view.

"I am therefore obliged to terminate your appointment with effect from the end of the day, 20 June 1955, under the provisions of Staff Regulation 9.1.1.

"In accordance with the terms of your indeterminate appointment you will receive an indemnity equivalent to [five] months pensionable remuneration.

"You will be paid salary and allowances in lieu of three months' notice.

"You will also receive any other payments to which you are entitled upon separation;"

(16) By letter dated 24 June 1955 the complainant requested the Director General to reconsider his decision to terminate her appointment;

(17) By letter dated 27 June 1955 the Director General informed the complainant that he adhered to his decision;

(18) In agreement with the Director General of the defendant Organization, the complainant renounced her right of appeal to the Appeals Board and decided to resort directly to the Administrative Tribunal as permitted in Article 6 of the Statute of the Appeals Board, the decision taken being considered as final and the complainant being considered as having exhausted all other means of resisting it;

ON THE SUBSTANCE:

A. Considering that the decision of 20 June 1955 terminating the appointment of the complainant was taken in application of Regulation 9.1.1 of the Staff

Regulations, as adopted by the UNESCO General Conference in Montevideo on 8 December 1954, this Regulation being in the following terms:

"The Director General may also, giving his reasons therefor, terminate the appointment of a staff member:

"(a) If the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations;

"(b) If facts anterior to the appointment of the staff member and relevant to his suitability or which reflect on his present integrity come to light, which, if they had been known at the time of his appointment should, under the standards established in the Constitution, have precluded his appointment.

"No termination under the provisions of this Regulation shall take effect until the matter has been considered and reported on by a special advisory board appointed for that purpose by the Director General";

Considering that where the Director General acts within the provisions of Regulation 9.1.1 he has only the statutory powers conferred on him by the General Conference; that in a particular case the Tribunal's appreciation and review of the exercise of this power consists in examining whether in fact the circumstances of the case are such as to justify the application thereof; that if this were not to be the case the application of this power would be at the Director General's sole pleasure;

Considering that Regulation 9.1.1 expressly provides that reasons must be given for taking the measures set forth therein and that the matter be first reported on by a Special Advisory Board appointed for that purpose by the Director General;

B. Considering that in this case the decision is expressly motivated by the attitude taken by the complainant with respect to the measures of investigation provided by the Government of the United States in application of Executive Orders No. 10422 and 10459, this attitude consisting principally in the refusal of the complainant to accede to the invitation to appear before the Loyalty Board in July 1954, and by the fact that after that date the complainant took no steps nor showed any wish to repair or mitigate the harm which was deemed to have been suffered by the Organization as a result of her refusal to appear, when she could not ignore the gravity of such harm;

Considering that the submissions of the defendant oblige the Tribunal, in order to carry out its functions under the provisions of Article II of its Statute, to seek in what manner and to what extent the interests of the Organization may have been prejudiced;

Considering that the difficulties having arisen within the defendant Organization are that one Member State, in default of obtaining the removal of those of its citizens being officials finding themselves in a situation similar to that of the complainant, appeared to be considering withdrawing its participation and support from the Organization; that in particular an express statement in this sense was made before the Subcommittee on Appropriations of the House of Representatives of this State by one of the members of the delegation of the said State at the Montevideo Conference;

That it is significant that the Director General, on 10 December 1954, that is to say on the date following that on which the Staff Regulations conferred upon him the new power, invoked such power against the three parties concerned, in order to suspend them from their duties and to take those procedural measures against them arising out of which the decisions to terminate them, now before the Tribunal, were taken:

That besides there is no indication that there was any other reason for considering that the interests of the Organization were imperilled;

That the safeguarding *erga omnes* of the independence and impartiality of the Organization is also vital and must not be lost sight of;

C. Considering that the complainant could, in conscience, be persuaded that she was within her rights, that besides it has never been alleged that the complainant had been the object of legal proceedings in her own country by reason of the attitude complained against, since a purely administrative procedure was involved; that exception could not be taken against her, for having failed in her employment to determine precisely the gravity and imminence of the danger which may have imperiled certain interests of the Organization;

Considering that no exception can be taken against her on such grounds nor could she be reproached with having abstained from taking steps for which no particulars were given and in addition never requested of her, in order to repair or mitigate the difficulties to which the Organization was subject;

Considering that the Director General adduces however from the complainant's attitude and from the maintenance of this attitude that the complainant showed that she did not wish to regulate her conduct with the interests of the Organization only in view;

That in consequence on 20 June 1955 the Director General terminated the complainant's appointment with immediate effect (at the same time according to her those indemnities to which she was entitled under Regulation 9.3 of the Staff Regulations and Rule 104.7 e) of the Staff Rules), after having consulted the Special Advisory Board set up in Regulation 9.1.1 of the Staff Regulations and after carefully studying, as he states, the report of this Board;

D. Considering that it must be observed that the decision taken is based solely on paragraph (a) of Regulation 9.1.1 of the Staff Regulations which gives to the Director General the power to terminate an official's appointment "if the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations";

That, on the basis of this wording, the clear distinction between the notions respectively of integrity and loyalty is henceforward not in issue; that the grounds adduced are based on the duty of officials "to conduct themselves at all times in a manner befitting their status as international civil servants", "to bear in mind the reserve and tact incumbent upon them by reason of their international status," and at no time to lose sight of the interests of the international organization for which they serve;

Considering that paragraph (b) of Regulation 9.1.1 deals only with facts anterior to appointment or facts which, if they had been known at the time of the appointment should have precluded the appointment, such facts not having been demonstrated and not being in issue in this case,

E. Considering besides that there is no other motive in the case which can be invoked in justification of termination;

That the Special Advisory Board which had been voluntarily set up by the Director General within the defendant Organization, as early as September 1954, expressly stated that it could find no evidence either in the reports of the Loyalty Board or as a result of its own enquiries that the complainant, during her employment in the Secretariat of the defendant Organization, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

That it results from the complainant's performance reports that she has never been the subject of any reproach; that on the contrary the appreciations contained therein were entirely laudatory as regards her work and performance and that she was promoted;

That the Director General was therefore entirely correct in not invoking against her any misconduct, breach of professional duty or unsatisfactory service; that on the contrary the representative of the defendant Organization has pointed out on several occasions that termination for disciplinary reasons was not in issue and that the sole issue was the termination of an appointment, with payment of indemnities, under the new Regulations on which the Director General relies;

F. Considering that the defendant Organization objects to the production of the report of the Special Advisory Board which was set up in 1955 on the basis of the amended Regulations adopted by the General Conference;

That this objection is motivated by a text inserted by the Director General himself in the rules which he drew up in order to give effect to the new provisions of the Staff Regulations by virtue of the powers conferred on him under the said Regulations; that this text stipulates (Staff Rule 109.10) that the proceedings and records of the Board shall be secret and confidential;

That if this provision made by the Director General in application of the regulations adopted by the General Conference were to be considered as lawful, it would have as its effect to remove from the Special Advisory Board its principal object; that in reporting to the Administrative Commission of the General Conference (document SC/ADM/14, paragraph 11), the author of the text declared himself on the subject of this Advisory Board as follows: "This is one way in which it is considered that staff members may be protected from the possibility of arbitrary decisions"; that where the opinion given is confidential to the Director General alone, such additional guarantee promised against arbitrary decisions is unavailing;

That where the competent jurisdiction for reviewing the decision of the Director General is not able, any more than the complainant, to have cognizance

of the opinion of the Special Advisory Board, and where, besides, the Director-General is entirely free not to take account of such opinion and is thereby not subject to any outside review, it would have sufficed to permit the Director-General to be counseled accordingly thereon by such adviser as he thought fit; that this cannot be imagined to have been the impression which led to the vote in the General Conference, the Conference being manifestly desirous to effectively protect staff members whose appointments would be terminated under Staff Regulation 9.1.1, from arbitrary decisions;

Considering that the deposition made under oath by Mr. Phelan, Chairman of the said Board, cited as a witness, shows that the members of the Board did not, in accepting to serve, impose a condition of secrecy; that they questioned the Director-General on his intentions in this regard, which was proper, but did not have as a legal result to deprive the Director-General from disposing of the report as he thought fit;

That the objection to the production of the report of the Board which was available to the Director-General removes an element from the appreciation of the Tribunal competent to pronounce on the regularity of the decision taken; that the regulations having been observed in the letter the Tribunal may not order thereon, but that in any event it was unable in its consultations to take into account this unknown element;

G. Considering that the complainant submits that the provisions of the new Regulations adopted in December 1954 are not applicable in her case since the facts set up against her took place prior to such adoption;

That this submission is unfounded, the Director-General having been accorded the power to review the conduct of a staff member, the appointment of whom is to be terminated, solely with regard to the high standards required of an international official, and that he is free in this respect to take into account those elements on which he considers his decision may be based;

That without doubt, the granting of such a power opens the door to a great extent to arbitrary decisions; that it fully justifies the preoccupations of those desirous of providing at the same time sure and effective guarantees; that the Administrative Tribunal must watch over the jurisdictional review which it exercises; but that the texts exclude the submission based on their retroactive application;

H. Considering that where the Director-General has the power to terminate an indeterminate appointment, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organization;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Regulation 1.4 of the Staff Regulations of the defendant Organization is as follows:

"Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organization. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence and impartiality which are required by that status. While they are not expected to give up their national sentiments, or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status";

Considering that, in thus clearly establishing the entire freedom of conscience recognized to international officials in respect to both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organization to which they owe their loyalty and devotion;

I. Considering that, when consulted by the Staff Association of the defendant Organization on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director-General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board it is established that the complainant approached the Director

General only at a late date, so that the latter would not have been able to give her advice in sufficient time;

J. Considering that, in order to review all factors, it is necessary to enquire whether the acts or omissions of the complainant could be considered as justifying the application of paragraph (a) of Regulation 9.1.1 of the Staff Regulations, on the grounds that in themselves they caused doubt to exist as to whether she fulfilled the highest standards required of an international official;

Considering that the complainant does not challenge the legitimate character of the enquiry made within the staff by the Special Advisory Board set up by the Director General on 28 September 1954, following the submission to the Director General of the report made against her by the Loyalty Board in default of her appearance;

That this measure is in accordance with the undertaking made with the State member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organization; that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director General would "be studied with care" and that he would "certainly give every consideration to it, in the light of the Constitution of UNESCO and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of UNESCO";

That the Special Advisory Board set up on 28 September 1954 expressed the opinion, as referred to above, that it could find no evidence that the complainant had engaged or was engaging in activities during her employment, that could be shown to be misconduct under the Staff Regulations and Staff Rules; the Board concluding, however, that the attitude adopted by the complainant as well as the reasons given for her attitude gave rise to serious doubts about the degree of confidence that could be placed in her integrity, judgment, and loyalty to the Organization; that the Board found justification for this opinion in stating that in a situation which, in its opinion, was clearly harmful to the Organization, the complainant maintained that adherence to her own personal views was more important than the interests of the Organization;

That this opinion restates in different terms the reasons invoked for the decision taken;

K. Considering, however, that when requested to give an opinion on the decision itself, the Appeals Board, presided over by an eminent magistrate enjoying the confidence of all parties and composed jointly of members appointed by the Director General and members appointed by the Staff Association, came unanimously to a diametrically opposed conclusion; that after a full hearing and a thorough study of all the facts in the case, it unanimously concluded that the complainants had not failed in the high standards required of members of the Secretariat, had not committed acts incompatible with the integrity required of them and had not disregarded the true interest of the Organization; that, as a consequence, the decisions to terminate them had no basis in law and that the said complainants had shown cause for requesting reinstatement; that the Tribunal fully agrees with this particularly authoritative opinion;

That the Court must besides take into consideration the due care required of it in appreciating the validity of the decision taken, by reason of the striking and indefensible disproportion between the alleged attitude of the complainant and the measure taken against her, putting an end to the career on which she based her future, when no complaint regarding her work had been alleged; that from this standpoint it is of no moment that the termination was not a disciplinary action in the formal sense of the Regulations and that certain indemnities were accorded, when the fundamental result is to deprive the party concerned of her employment by exposing her to all the risks and distress of an uncertain future;

L. Considering that it is thus established that the ground for complaint of the Director General is based solely on the refusal of the official to participate in measures of verbal or written enquiry to which his national Government considers it necessary to subject him;

That the Director General of an international organization cannot associate himself with the execution of the policy of the Government authorities of any State member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that Organization towards the achievement of its own, exclusively international objectives;

That this duty of the Director General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organization in the following terms:

"The responsibilities of the Director General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not

seek or receive instructions from any Government or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organization undertakes to respect the international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties."

Considering that the fact that in this case the doubts raised as to the loyalty of the complainant to her own Government brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realize that if any one of the seventy-four States and Governments involved in the defendant Organization brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an enquiry in similar or analogous conditions, the attitude adopted by the Director General would constitute a precedent obliging him to lend his assistance to such enquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence and the same application of Regulation 9.1.1 of the Staff Regulations, on the basis of any opposition by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organization;

M. Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to the high standards required of an international official;

That neither does it appear that the complainant placed her own interests above the true interest of the Organization, as defined above;

Considering therefore that the only ground for complaint adduced by the Director General to justify the application to the complainant of Regulation 9.1.1 of the Staff Regulations, that it to say her opposition to the investigations of her own Government, is entirely unfounded;

N. Considering that it results therefrom that the decision taken must be rescinded, the said decision not resting on any provision of the Staff Regulations; that nevertheless the Tribunal does not have the power to order reinstatement, which requires a positive act of the Director General, over whom the Tribunal has no hierarchical authority;

That in the absence of such a power and unless the Director General should consider himself in a position to reconsider his decision in this manner, the Tribunal is nonetheless competent to order equitable reparation of the damage suffered by the complainant by reason of the measure of which she was the object;

ON PREJUDICE:

Considering that should the complainant not be reinstated with full rights, she should be compensated for the material and moral prejudice which she has suffered by reason of the decision taken;

That such prejudice may be assessed *ex aequo et bono* at two years' base salary, without any setoff of the indemnities which she has been accorded;

Considering that the annual base salary of the complainant amounted to \$5,400;

That there are no grounds for allocating a supplementary indemnity by reason of the suspension with salary dated 10 December 1954, a measure which the Director General was entitled to take within the limits of his authority and which cannot be considered in the circumstances as having increased the prejudice suffered;

ON THE GROUNDS AS AFORESAID

THE TRIBUNAL,

Rejecting any wider or contrary conclusions,

Declares the complaint to be receivable as to form,

Declares that it is competent,

Orders the decision taken to be rescinded and declares in law that a legal basis therefor cannot be found in the Staff Regulations;

In consequence, should the defendant not reconsider the decision taken and reinstate the complainant, orders the said defendant to pay to the complainant

an amount equal to two years' base salary, namely \$10,800, together with interest at 4 per centum from 20 June 1955, without any setoff of the indemnities accorded to her at the time of termination of her appointment;

Orders the defendant Organisation to pay to the complainant the sum of \$300 by way of participation in the costs of her defence:

PRONOUNCING on the application to intervene made by M. Henquet;

Considering that such intervention is receivable in so far as it is made by M. Henquet in his own name, an official of the defendant Organisation, holder of an indeterminate appointment;

Considering that the intervention is founded, in so far as recognized by this judgment;

Orders the defendant Organisation to bear the expenses for which justification is provided by the intervenor up to a maximum of \$40.

In witness of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 29 October 1955, by His Excellency M. Albert Deveze, President, Jonkheer van Rijckevorsel, Judge, Acting Vice President, and M. Iasson Stavropoulos, Deputy Judge called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signatures) ALBERT DEVEZE,
A. VAN RIJCKEVORSEL,
IASSON STAVROPOULOS.
FRANCIS WOLF.

EXHIBIT No. 378-C

[Unofficial translation]

INTERNATIONAL LABOUR ORGANISATION

ADMINISTRATIVE TRIBUNAL

Judgment No. 15

ORDINARY SESSION OF AUGUST—SEPTEMBER 1954

Sitting of 6 September 1954

IN THE MATTER OF MR. DAVID LEFF AGAINST UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANISATION

The Administrative Tribunal of the International Labour Organisation, Having had referred to it a complaint submitted against the United Nations Educational, Scientific, and Cultural Organisation on 24 March 1954 by Mr. David Leff, an official of that organisation, asking that "the Tribunal be pleased to judge that the order given by the Director General of UNESCO to Mr. David Leff on 3 and 11 December 1953 and on 22 March 1954 cannot be validly given under the regulations and rules in force, that it enjoins an international official to perform an act foreign to the service and to his obligations, and that in consequence it must be rescinded;"

Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 23 April 1954;

Considering the additional memorandum deposited by the complainant on 10 May 1954;

Considering the memorandum of rejoinder of the defendant Organisation dated 2 June 1954;

Having had referred to it a statement submitted in his own name on 10 August 1954 by Mr. Harry Dawes, Chairman of the Staff Association of UNESCO;

Considering the pleadings exchanged by the representatives of the parties during the hearing;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) On 17 August 1951, the passports of the complainant, his wife and his two children, all citizens of the United States of America, were withdrawn from him by the Consulate of the United States in Paris;

(2) On 15 May 1953, a summons to appear (subpoena) before the Federal Grand Jury in New York was notified to the complainant, ordering him to appear on 21 May 1953 "to testify and give evidence" concerning a possible violation of Section 371, title 18, U. S. Code: "Conspiracy to commit offence or to defraud the United States":

(3) The complainant summoned as a witness not having replied to that summons on the date fixed, the Acting Director General of the defendant Organisation was informed that the competent authorities had refused to consider as legitimate the grounds invoked by the complainant for not appearing; in consequence, the Acting Director General, by a letter dated 22 May 1953 informed the complainant of his decision to proceed to an investigation into the circumstances of the summons addressed to the complainant and the validity of the grounds invoked by him for refraining from complying therewith; by the same letter, the Acting Director General, relying on Article 92, paragraph (e) of the Staff Rules, suspended the complainant, with pay, on the grounds that his refusal to reply to the summons constituted *prima facie* evidence of conduct incompatible with his obligations as a staff member of UNESCO as they are laid down in Staff Regulation 1.4;

(4) By a letter of 27 May 1953 the complainant introduced an appeal before the Appeals Board of UNESCO seeking the rescission of the suspension decision and the abandonment of the investigation ordered by the Acting Director General;

(5) On 27 July 1953 the Appeals Board gave the opinion:

(a) that the suspension pronounced against the complainant be rescinded;
 (b) that the complainant be reinstated: (c) that for the rest, the complainant was not justified in asking that an end be put to the investigation;

(6) By a letter dated 29 July 1953 the Director General consequently instructed the complainant to report for duty on 30 July;

(7) On 30 July 1953 the Director General verbally proposed to the complainant, in the event of his going to New York and being unable to return to Paris, to transfer him, "with his post", to New York, this transfer to include the payment of the travel expenses of his family and the transport of his possessions;

(8) By a letter dated 3 August 1953 the complainant informed the Director General that before replying to the proposal thus made, he wished to exercise his right as a citizen of the United States to ask to be questioned in Paris and requested time for this purpose;

(9) By a letter dated 24 September 1953, the Director General was informed by the Embassy of the United States in Paris that "With reference to Mr. David N. Leff's request that his testimony * * * be taken in Paris * * * the Grand Jury considers that the subpoena served Mr. Leff requiring that he appear in New York * * * is still in effect" and that "The Grand Jury does not intend, therefore, to respond to Mr. Leff's inquiry"; this letter was communicated to the complainant on 25 September 1953;

(10) By a letter dated 22 October 1953 the complainant informed the Director-General of the negative result of his negotiations and asked UNESCO to undertake official negotiations to secure that his testimony be accepted in Paris;

(11) By a letter dated 18 November 1953 the Director-General informed the complainant of his refusal to undertake officially negotiations of this nature, considering that it was for the competent judicial authority to decide on the procedure to be followed;

(12) By a letter dated 3 December 1953 the Director-General informed the complainant that, having received no reply to his offer of transfer, he instructed him to proceed to New York to respond to the subpoena of the Grand Jury. This letter stated *inter alia*:

"For reasons I gave you in my letter of 18 November 1953, I cannot accept your suggestion that I should make a request to the Grand Jury to apply the provisions which exist for taking testimony abroad. Such an intervention has not been made in the past. I must repeat what I have said before, that you have not satisfied me that any of your rights would be jeopardized by your response to the subpoena, or by your acceptance of the offer I have made to transfer you, and your post, to the New York office.

"You indicated in your letter that you are still not in a position to accept my offer which you will remember, I first made on 30 July 1953. In the circumstances, I feel obliged to instruct you to proceed to New York for the purpose of responding to the Grand Jury's subpoena";

(13) This instruction was repeated in a letter dated 11 December 1953 by which the Director General instructed the complainant to make the necessary arrangements for this purpose before 17 December 1953; this letter read as follows:

11 DECEMBER 1953.

DEAR MR. LEFF: In reply to your letter of 7 December 1953, I am obliged to remind you that I and the Acting Director General before me have always considered that your refusal to respond to the subpoena addressed to you by the judicial authorities of your country is a serious matter which can gravely damage the prestige and reputation of the Organisation.

On 3 December 1953, I instructed you to go to New York to respond to the subpoena in order that prejudice may not be caused to this Organisation which you have undertaken to serve with its interests alone in view. However, I have only done this after giving you guarantees, which I consider satisfactory, as to your fears regarding the continuation of your employment by UNESCO and separation from your family. These guarantees are contained in the promise made in my letter of 3 December that I will, at your request, transfer you to work in the New York Office and arrange for the transportation of your family to the United States if you are not in a position to return to your work in Paris.

It follows that my letter is in no sense an instruction that you and your post shall be transferred to New York. I am completely safeguarding the possibility for you to return to your work in Paris.

In the circumstances, I can only repeat the instructions given in my letter of 3 December, and I request that before 17 December you make the necessary arrangements with the Head of the Bureau of Personnel and Management to leave for New York in the near future.

I consider that it would serve no useful purpose to take up certain misstatements contained in your letter of 7 December regarding matters on which you have already received full explanation.

Yours sincerely,

(Signed) LUTHER H. EVANS,
Director General.

(14) By a letter dated 14 December 1953 the complainant informed the Director General of his intention to lay the matter before the Appeals Board;

(15) By a letter dated 17 December 1953 the Director General informed the complainant that in view of the exceptional circumstances of the affair, he had decided to rescind that part of his letter of 11 December 1953 which required the complainant to make arrangements by 17 December 1953 for his departure; he added that he would inform the complainant at a later time of the date by which he required him to make these arrangements; this letter read as follows:

17 DECEMBER 1953.

DEAR MR. LEFF: I have your letter of 14 December 1953, in which you express the hope that I will consent to await the result of your appeal against my order before taking further action.

I have discussed this suggestion with my advisers and also with the Executive Committee of the Staff Association. I have decided, in view of the exceptional circumstances of the affair, to rescind that part of my letter of 11 December 1953 which required you to make arrangements by 17 December for your departure to New York at an early date. I will, at a later time, inform you of the date by which I require you to make these arrangements.

Yours sincerely,

(Signed) LUTHER H. EVANS,
Director General.

(16) By a complaint dated 28 December 1953 the complainant requested the Appeals Board to express the opinion that the order given to him to go to New York for the purpose of giving testimony before the Grand Jury "could not be validly given under the regulations and rules in force, that it enjoins an international official to perform an act foreign to the service and that in consequence it must be withdrawn";

(17) On 8 March 1954 the Appeals Board expressed the opinion "that the decision dated 3 and 11 December 1953 should be rescinded in so far as it orders Mr. Leff to go to New York to comply with the summons to appear before the Grand Jury"; it added that the same might not have applied if it had been a question of a writ of summons and not a subpoena;

(18) By a letter dated 16 March 1954 the Director General indicated to the complainant that, by a letter dated 13 March 1954, he had been informed by the Permanent Delegate of the United States to UNESCO that the United States District Court for the Southern District of New York had issued, on 11 March 1954, an order enjoining the complainant to show cause, on 25 March 1954, why he should not be adjudged for criminal contempt of court for having refused to appear before the Grand Jury pursuant to a subpoena;

(19) On 16 March 1954 the complainant received by registered letter a copy of the order to show cause and asked the head of the Bureau of Personnel and Management of UNESCO whether such an order could be properly served on the international territory of UNESCO;

(20) By a letter dated 16 March 1954 the head of the Bureau of Personnel and Management stated, on behalf of the Director General, that the premises of UNESCO being inviolable, no service of legal process might take place thereon except with the consent of, and under conditions approved by, the Director General, which consent had been neither requested nor given;

(21) By a letter dated 22 March 1954 the Director General informed the complainant that he had been officially informed of the issue of the order to show cause by the United States District Court for the Southern District of New York and instructed the complainant to satisfy the requirements of the judicial authorities of the United States; this letter read as follows:

PARIS, 22 March 1954.

DEAR MR. LEFF: I have given all due consideration to the opinion dated 9 March 1954, rendered by the Appeals Board and concerning my instruction for you to proceed to New York in answer to the subpoena issued to you by the United States Grand Jury and served on you on 15 May 1953.

I have also been officially informed that the United States District Court for the Southern District of New York has issued an order for you to show cause, on 25 March of this year, why you should not be cited for contempt for failure to respond to the above mentioned subpoena.

In the light of these developments, I hereby instruct you to satisfy the requirements of the judicial authorities of the United States, and I request you to let me know what steps you are taking to this effect.

I want you to know that I shall attach the greatest importance to the judgement which will be rendered by the United States District Court for the Southern District of New York.

Yours sincerely,

(Signed) LUTHER H. EVANS,
Director General.

(22) By a letter dated 27 March 1954 the Director General was informed by the Permanent Delegate of the United States to UNESCO that the said Court had found the complainant in contempt of court and had issued a bench warrant against him;

(23) On 6 April 1954 a notice of cross-motion filed with the United States District Court for the Southern District of New York made known that the complainant moved that the subpoena, bench warrant and order to show cause be quashed upon the ground that a Grand Jury subpoena could not be served outside the United States, that the respondent was never served with process and that the Court was without jurisdiction over his person;

(24) By a letter dated 15 April 1954 to the Chairman of the Appeals Board, the Director General informed him that the judicial authorities of the United States had issued the order to show cause to which the Appeals Board had formally referred in its opinion of 8 March 1954 and in the absence of which the Appeals Board had considered that it was not for the Director General to order the complainant to go to New York; the Director General added that in the presence of this new fact, "he reserved the right to take, in the light of the judgement to be adopted by the United States District Court any decision concerning the complainant which he might deem necessary";

Considering that the first question which arises is to know whether the order given by the Director General to the complainant on 22 March 1954—by which the Director General instructed him to satisfy the requirements of the judicial authorities of the United States as formulated at that date in consequence of the issue of the order to show cause—forms an indivisible whole with that of 3 December 1953 (repeated on 11 December 1953) concerning the summons before the Grand Jury of which the first is but the consequence;

Considering that the order of 3 December 1953 (repeated on 11 December 1953) was partly rescinded on 17 December only in so far as it fixed the maximum time limit for its execution, the order itself being unquestionably maintained in principle;

Considering that it is impossible to admit that there is unity between the two orders; that the order of December 1953 was based on the demand for the personal appearance of the complainant before the Grand Jury to give testimony whilst that of 22 March 1954 was based on the duty of the complainant to defend himself before the court seized of an indictment against him; that whereas the purpose of the order of December 1953 was to oblige the complainant to go to New York, the order of 22 March 1954 required him to satisfy the requirements of the judicial authorities of the United States as formulated at that date, which included the possibility, for the complainant, to arrange for himself to be represented;

That the two orders have thus a different basis (subpoena before the Grand Jury on the one hand and, on the other hand, writ of summons before the court) and a different purpose (personal appearance in the first case and freedom to be represented in the second case, at the time of formulation of the order);

Considering that at the time when the first order was given the complainant had not yet become involved as an accused person, as was the case when the order of 22 March 1954 was given;

Considering that it was thus that the Appeals Board, on 8 March 1954, considered that the Director General was not, on the basis of the facts existing at that date, justified in giving this order;

Considering therefore that the two orders must be considered as distinct and subjected to separate examination through separate procedures;

ON THE ORDER OF 3 AND 11 DECEMBER 1953:

Considering that the defendant Organisation pleads that the order has been replaced and completely rescinded by the subsequent order of 22 March 1954;

Considering nevertheless that in fact the order of December 1953 has never been explicitly withdrawn as regards the part subsisting after the notification dated 17 December of the same year and that, besides, this order has in no way become non-executable as long as it is not established that the procedure before the Grand Jury which gave rise to the issue of the subpoena has finally been dropped;

That the statements subsequently made by the defendant Organisation as to the total rescission of the order are devoid of relevance, as the situation must be determined at the time when the Appeals Board issued its opinion, whereas the Organisation participated in the meetings of the Appeals Board to defend there the measures impugned and against the claim of the complainant;

Considering that it is thus the duty of the Tribunal to examine the validity of this order;

Considering that this order obviously does not concern the actual service of the international Organisation; that the latter must enjoy the full sovereignty of its authority and must not be to any extent subject to external influence emanating from any one of its States Members; that in this respect most strict and clear provisions guarantee its complete independence and that of its officials;

Considering *inter alia* that Article VI, paragraph 5, of the Constitution of UNESCO specifies the following:

"The responsibilities of the Director General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organisation. They shall refrain from any action which might prejudice their position as international officials. Each State member of the Organisation undertakes to respect the international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties";

Considering that it is specified in UNESCO Staff Regulation 1.2 that the members of the staff are responsible to the Director General "in the exercise of their functions";

Considering, besides, that Staff Regulation 1.4 provides that members of the Secretariat shall conduct themselves at all times in a manner consonant with the good repute and high purposes of the Organisation and their status as international civil servants; that they shall not engage in any activity that is incompatible with the proper discharge of their duties; that they shall avoid any action, and in particular any kind of public pronouncement which would adversely reflect upon their position as international officials; that while they

are not expected to give up their religious or political convictions or national sentiments, they shall at all times exercise the reserve and tact incumbent upon them by reason of their international responsibilities; that Staff Regulation 1.9 provides that on accepting appointment each staff member shall subscribe to a declaration whereby he undertakes to exercise the functions entrusted to him with the interests of the Organisation only in view;

Considering that it does not follow from the above mentioned texts that the conduct of an official with regard to the Government of his country, although outside the actual service of the international Organisation, is entirely outside the control of the disciplinary authority of the Organisation;

That on the contrary this is the case when that conduct is judged to be seriously likely to affect the dignity of the official and the prestige of the organisation to which he belongs—a point of fact of which the appreciation will vary according to the circumstances of each case;

That the validity of the order in dispute therefore depends entirely on whether, if on 3 and 11 December 1953, this fact was established to the point that the intervention of the authority of the Director General was justified;

Considering that the Appeals Board formally expressed the view that at that date disciplinary action was not justified, the circumstances required for such action not being met since there was only a question, in the case of the complainant, of abstention from appearing in New York as a witness in the investigation of the Grand Jury;

Considering that the opinion thus expressed by the Appeals Board should be subscribed to and that in consequence the order of 3 and 11 December 1953 should be rescinded;

ON THE ORDER OF 22 MARCH 1954:

Considering that as regards the said order the Tribunal can only note that it has not thus far been the subject of an appeal before the Appeals Board;

That Article VII of the Statute of the Tribunal provides that a complaint shall not be receivable unless the decision impugned is a final decision and the person concerned has exhausted such other means of resisting it as are open to him under the applicable staff regulations;

Considering in fact that the time limit provided for in Article 10 of the Provisional Rules of the Appeals Board for filing an appeal against the order in question has now expired; but that if no appeal was made, this is obviously because, in the view of the complainant, no distinction was to be made between the order of 3 and 11 December 1953 and the order of 22 March 1954;

That it is therefore in the strict interests of impartial justice that the time limit for appeal be reopened as from the date of the present judgment so that the complainant may exercise his right freely and completely before the Appeals Board to challenge the validity of the order under dispute, particularly in setting forth all the considerations relating to the circumstances under which the penal procedure taken against him was opened and followed, taking into account the nature of the indictment to which he has to reply.

ON THE GROUND AS AFORESAID:

The Tribunal,

Rejecting all wider or contrary conclusions,

Declares in law that the orders made in December 1953 and in March 1954 are distinct and must be the subject of separate appeals procedures;

Declares the complaint receivable and founded in so far as it relates to the order of 3 December 1953 repeated on 11 December following;

Orders the rescission of the said order;

For the remainder, declares the complaint at present irreceivable in so far as it relates to the order of 22 March 1954;

Declares that the time limit of fifteen days statutorily granted to the complainant to file an appeal against this order with the Appeals Board is reopened as from the date of the present judgment;

As regards the statement of Mr. Harry Downs, in so far as it is made in his own name, declares it receivable in form, founded in so far as it relates to the order of 3 and 11 December 1953, and irreceivable for the rest;

Considering that the statement cannot give rise to the granting of damages and that the fact that it is received cannot entail any consequence other than the granting of expenses incurred in connection with the statement;

Orders the defendant Organisation to pay the complainant the sum of three hundred dollars by way of participation in expenses;

Further orders the defendant Organisation to bear such expenses as may be justified by the declarant Dawes, up to a maximum of one hundred dollars;

In witness of which judgment, pronounced in public sitting on 6 September 1954 by His Excellency M. Albert Devèze, President, Jonkheer van Rijckevorsel, Acting Vice President, and M. Iasson Stavropoulos, Deputy Judge, called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

ALBERT DEVÈZE,
A. VAN RIJCKEVORSEL.
IASSON STAVROPOULOS.
FRANCIS WOLF.

(EXHIBIT No 378-D

[Unofficial translation]

INTERNATIONAL LABOUR ORGANISATION

ADMINISTRATIVE TRIBUNAL

Judgement No. 23

FIFTH ORDINARY SESSION (PART II), GENEVA, OCTOBER 1955

Sitting of 29 October 1955

IN THE MATTER OF MRS. KATHRYN PANKEY AGAINST UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANISATION

The Administrative Tribunal of the International Labour Organisation.

Having had referred to it a complaint submitted against the United Nations Educational, Scientific and Cultural Organisation on 13 September 1955 by Mrs. Kathryn Pankey, a former official of that Organisation, asking that the Tribunal be pleased to rescind the decision taken on 20 June 1955 terminating the complainant's appointment and, in default of reinstatement, to enjoin the defendant Organisation to pay to the complainant by way of damages a sum equivalent to three years' salary, together with an indemnity of \$10,000;

Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 6 October 1955;

Having had referred to it a statement submitted in his own name, in his status as an official of the defendant Organisation, holder of an indeterminate appointment, on 3 October 1955 by M. Pierre Henquet, Chairman of the Staff Association;

Having heard, on oath, in public sitting on 20 October 1955 Edward Joseph Phelan, witness cited by the complainant, whose deposition, certified true, is in the dossier;

Considering the pleadings exchanged by the representatives of the parties during the hearing;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organisation on 17 March 1952;

(2) At the time when the decision complained of was taken the complainant was the holder of an indeterminate appointment, subject to a five-year review on 5 May 1958;

(3) In February 1953 the complainant received a questionnaire to be completed and returned in application of "Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations" whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant did not complete this questionnaire;

(4) In March 1954, the complainant received an interrogatory from the International Organizations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10459 of 2 June 1953 amending Executive Order No. 10422 of 9 January 1953 interrogatory to which the complainant also did not reply;

(5) In June 1954, the complainant received an invitation to appear on 9 July 1954 before the Loyalty Board, meeting at the United States Embassy in Paris;

(6) By letter dated 16 July 1954 the complainant informed the Director General of the reasons of conscience on which she based her refusal to appear;

(7) Subsequently the Director General received communication of the report of the Loyalty Board (advisory determination) dated 27 August 1954 in which it was stated that:

"* * * the Board concludes that on all the evidence, there is a reasonable doubt as to the loyalty of the employee, Kathryn Pankey, to the Government of the United States."

(8) The complainant was herself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 15 September 1954, and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director General of the defendant Organization;

(9) On 28 September 1954 the Director General set up a Special Advisory Board consisting of members of the staff whose task was to "examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director General and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations"; the complainant appeared and explained her position before this Special Advisory Board;

(10) The complainant was informed by a note dated 10 December 1954 that she was suspended from her functions with pay until further notice in application of Rule 109.11 of the Staff Rules;

(11) By a note dated 16 December 1954 the complainant requested the Director General to reconsider his decision;

(12) The Director General declined to reconsider his decision and the complainant submitted an appeal to the UNESCO Appeals Board on 10 February 1955, asking that the decision to suspend her be rescinded;

(13) On 25 July 1955 the Appeals Board, by a majority, expressed the opinion that the decision of the Director General dated 10 December 1954 by which the complainant had been suspended from her functions with pay should be rescinded;

(14) Before the Appeals Board had taken its decision the Special Advisory Board, referred to in paragraph 9.1.1 of the Staff Regulations and appointed by the Director General in accordance with Rule 109.10 of the Staff Rules, heard the complainant in March 1955;

(15) By letter dated 20 June 1955 the Director General informed the complainant that her appointment was terminated on the same date. This letter stated *inter alia*:

"The Special Advisory Board which I appointed in accordance with Staff Regulation 9.1.1 has submitted its report to me on the matter concerning you.

"I have studied this report very carefully.

"I regret to inform you that I have come to the conclusion that your conduct indicated that you do not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations.

"I have come to this conclusion because of the attitude you have adopted to the investigation undertaken by the United States Government under Executive Order 10422, as amended by Executive Order 10459, which found its principal expression in your refusal to respond to the invitation to appear, in July 1954, before the International Organizations Employees Loyalty Board of the United States Civil Service Commission, and because, at no time up to this date, have you taken any steps or shown any desire to repair, or at least to mitigate, the harm done to the Organization by your refusal to appear before the Board.

"You could not have failed to realize that the attitude you have adopted gravely prejudiced the interests of the Organization.

"I have indicated, and in particular, at the Eighth Session of the General Conference, the seriousness of the consequences of such an attitude.

"In adopting and maintaining such an attitude, you have shown that you are not willing to regulate your conduct with the interests of the Organization only in view.

"I am therefore obliged to terminate your appointment with effect from the end of the day, 20 June 1955, under the provisions of Staff Regulation 9.1.1.

"In accordance with the terms of your indeterminate appointment you will receive an indemnity equivalent to two months pensionable remuneration.

"You will be paid salary and allowances in lieu of three months' notice.

"You will also receive any other payments to which you are entitled upon separation";

(16) By letter dated 24 June 1955 the complainant requested the Director General to reconsider his decision to terminate her appointment;

(17) By letter dated 27 June 1955 the Director General informed the complainant that he adhered to his decision;

(18) On 1 July 1955 the complainant submitted an appeal to the UNESCO Appeals Board asking that the Director General's decision dated 20 June 1955 be rescinded;

(19) On 29 July 1955 the Appeals Board, by a majority, expressed the opinion that the decision of 20 June 1955 by which the complainant's appointment was terminated should be rescinded;

(20) By letter dated 31 August 1955 the Director General informed the Chairman of the Appeals Board that he could not act in accordance with this opinion.

ON THE SUBSTANCE:

A. Considering that the decision of 20 June 1955 terminating the appointment of the complainant was taken in application of Regulation 9.1.1 of the Staff Regulations, as adopted by the UNESCO General Conference in Montevideo on 8 December 1954, this Regulation being in the following terms:

"The Director General may also, giving his reasons therefor, terminate the appointment of a staff member:

"(a) If the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations;

"(b) If facts anterior to the appointment of the staff member and relevant to his suitability or which reflect on his present integrity come to light, which, if they had been known at the time of his appointment should, under the standards established in the Constitution, have precluded his appointment.

"No termination under the provisions of this Regulation shall take effect until the matter has been considered and reported on by a special advisory board appointed for that purpose by the Director General";

Considering that where the Director General acts within the provisions of Regulation 9.1.1 he has only the statutory powers conferred on him by the General Conference; that in a particular case the Tribunal's appreciation and review of the exercise of this power consists in examining whether in fact the circumstances of the case are such as to justify the application thereof; that if this were not to be the case the application of this power would be at the Director General's sole pleasure;

Considering that Regulation 9.1.1 expressly provides that reasons must be given for taking the measures set forth therein and that the matter be first reported on by a Special Advisory Board appointed for that purpose by the Director General;

B. Considering that in this case the decision is expressly motivated by the attitude taken by the complainant with respect to the measures of investigation provided by the Government of the United States in application of Executive Orders Nos. 10422 and 10459, this attitude consisting principally in the refusal of the complainant to accede to the invitation to appear before the Loyalty Board in July 1954, and by the fact that after that date the complainant took no steps nor showed any wish to repair or mitigate the harm which was deemed to have been suffered by the Organization as a result of her refusal to appear, when she could not ignore the gravity of such harm;

Considering that the submissions of the defendant oblige the Tribunal, in order to carry out its functions under the provisions of Article II of its Statute, to seek in what manner and to what extent the interests of the Organization may have been prejudiced;

Considering that the difficulties having arisen within the defendant Organization are that one Member State, in default of obtaining the removal of those of its citizens being officials finding themselves in a situation similar to that of the complainant, appeared to be considering withdrawing its participation and support from the Organization; that in particular an express statement in this sense was made before the Subcommittee on Appropriations of the House of Representatives of this State by one of the members of the delegation of the said State at the Montevideo Conference;

That it is significant that the Director General on 10 December 1954, that is to say on the date following that on which the Staff Regulations conferred upon him the new power, invoked such power against the three parties concerned, in order to suspend them from their duties and to take those procedural measures against them arising out of which the decisions to terminate them, now before the Tribunal, were taken;

That besides there is no indication that there was any other reason for considering that the interests of the Organization were imperilled;

That the safeguarding *erga omnes* of the independence and impartiality of the Organization is also vital and must not be lost sight of;

C. Considering that the complainant could, in conscience, be persuaded that she was within her rights, that besides it has never been alleged that the complainant had been the object of legal proceedings in her own country by reason of the attitude complained against, since a purely administrative procedure was involved; that exception could not be taken against her, for having failed in her employment to determine precisely the gravity and imminence of the danger which may have imperilled certain interests of the Organization;

Considering that no exception can be taken against her on such grounds nor could she be reproached with having abstained from taking steps for which no particulars were given and in addition never requested of her, in order to repair or mitigate the difficulties to which the Organization was subject;

Considering that the Director General adduces, however, from the complainant's attitude and from the maintenance of this attitude that the complainant showed that she did not wish to regulate her conduct with the interests of the Organization only in view;

That in consequence on 20 June 1955 the Director General terminated the complainant's appointment with immediate effect (at the same time according to her those indemnities to which she was entitled under Regulation 9.3 of the Staff Regulations and Rule 104.7 (e) of the Staff Rules), after having consulted the Special Advisory Board set up in Regulation 9.1.1 of the Staff Regulations and after carefully studying, as he states, the report of this Board;

D. Considering that it must be observed that the decision taken is based solely on paragraph (a) of Regulation 9.1.1 of the Staff Regulations which gives to the Director General the power to terminate an official's appointment "if the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations";

That, on the basis of this wording, the clear distinction between the notions, respectively, of integrity and loyalty is henceforward not in issue; that the grounds adduced are based on the duty of officials "to conduct themselves at all times in a manner befitting their status as international civil servants," "to bear in mind the reserve and tact incumbent upon them by reason of their international status" and at no time to lose sight of the interests of the international organization for which they serve;

Considering that paragraph (b) of Regulation 9.1.1 deals only with facts anterior to appointment or facts which, if they had been known at the time of the appointment should have precluded the appointment, such facts not having been demonstrated and not being in issue in this case;

E. Considering besides that there is no other motive in the case which can be invoked in justification of termination;

That the Special Advisory Board which had been voluntarily set up by the Director General within the defendant Organization, as early as September 1954, expressly stated that it could find no evidence either in the reports of the Loyalty Board or as a result of its own enquiries that the complainant, during her employment in the Secretariat of the defendant Organization, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

That it results from the complainant's performance reports that she has never been the subject of any reproach; that on the contrary the appreciations contained therein were entirely laudatory as regards her work and performance and that she was promoted;

That the Director General was therefore entirely correct in not invoking against her any misconduct, breach of professional duty, or unsatisfactory service; that on the contrary the representative of the defendant Organization has pointed out on several occasions that termination for disciplinary reasons was not in issue and that the sole issue was the termination of an appointment, with payment of indemnities, under the new Regulations on which the Director General relies;

F. Considering that the defendant Organization objects to the production of the report of the Special Advisory Board which was set up in 1955 on the basis of the amended Regulations adopted by the General Conference;

That this objection is motivated by a text inserted by the Director General himself in the rules which he drew up in order to give effect to the new provisions

of the Staff Regulations by virtue of the powers conferred on him under the said Regulations; that this text stipulates (Staff Rule 109.10) that the proceedings and records of the Board shall be secret and confidential;

That if this provision made by the Director General in application of the regulations adopted by the General Conference were to be considered as lawful, it would have as its effect to remove from the Special Advisory Board its principal object; that in reporting to the Administrative Commission of the General Conference (document 8C/ADM/14, paragraph 11), the author of the text declared himself on the subject of this Advisory Board as follows: "This is one way in which it is considered that staff members may be protected from the possibility of arbitrary decisions"; that where the opinion given is confidential to the Director General alone, such additional guarantee promised against arbitrary decisions is unavailing;

That where the competent jurisdiction for reviewing the decision of the Director General is not able, any more than the complainant, to have cognizance of the opinion of the Special Advisory Board, and where, besides, the Director General is entirely free not to take account of such opinion and is thereby not subject to any outside review, it would have sufficed to permit the Director General to be counseled accordingly thereon by such adviser as he thought fit; that this cannot be imagined to have been the impression which led to the vote in the General Conference, the Conference being manifestly desirous to effectively protect staff members whose appointments would be terminated under Staff Regulation 9.1.1, from arbitrary decisions;

Considering that the deposition made under oath by Mr. Phelan, Chairman of the said Board, cited as a witness, shows that the members of the Board did not, in accepting to serve, impose a condition of secrecy; that they questioned the Director General on his intentions in this regard, which was proper, but did not have as a legal result to deprive the Director General from disposing of the report as he thought fit;

That the objection to the production of the report of the Board which was available to the Director General removes an element from the appreciation of the Tribunal competent to pronounce on the regularity of the decision taken; that the regulations having been observed in the letter the Tribunal may not order thereon, but that in any event it was unable in its consultations to take into account this unknown element;

G. Considering that the complainant submits that the provisions of the new Regulations adopted in December 1954 are not applicable in her case since the facts set up against her took place prior to such adoption;

That this submission is unfounded, the Director General having been accorded the power to review the conduct of a staff member, the appointment of whom is to be terminated, solely with regard to the high standards required of an international official, and that he is free in this respect to take into account those elements on which he considers his decision may be based;

That without doubt, the granting of such a power opens the door to a great extent to arbitrary decisions; that it fully justifies the preoccupations of those desirous of providing at the same time sure and effective guarantees; that the Administrative Tribunal must watch over the jurisdictional review which it exercises; but that the texts exclude the submission based on their retroactive application:

H. Considering that where the Director General has the power to terminate an indeterminate appointment, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organization;

Considering that it is in the light of this principle that the facts in this case should be examined:

Considering that Regulation 1.4 of the Staff Regulations of the defendant Organization is as follows:

"Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organization. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence and impartiality which are required by that status. While they are not expected to give up their national sentiments, or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status";

Considering that, in thus clearly establishing the entire freedom of conscience recognized to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organization to which they owe their loyalty and devotion;

J. Considering that, when consulted by the Staff Association of the defendant Organization on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director-General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board it is established that the complainant approached the Director General only at a late date, so that the latter would not have been able to give her advice in sufficient time;

J. Considering that, in order to review all factors, it is necessary to enquire whether the acts or omissions of the complainant could be considered as justifying the application of paragraph (a) of Regulation 9.1.1 of the Staff Regulations, on the grounds that in themselves they caused doubt to exist as to whether she fulfilled the highest standards required of an international official;

Considering that the complainant does not challenge the legitimate character of the enquiry made within the staff by the Special Advisory Board set up by the Director General on 28 September 1954, following the submission to the Director-General of the report made against her by the Loyalty Board in default of her appearance;

That this measure is in accordance with the undertaking made with the State member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organization; that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director General would "be studied with care" and that he would "certainly give every consideration to it, in the light of the Constitution of UNESCO and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of UNESCO";

That the Special Advisory Board set up on 28 September 1954 expressed the opinion, as referred to above, that it could find no evidence that the complainant had engaged or was engaging in activities during her employment, that could be shown to be misconduct under the Staff Regulations and Staff Rules; the Board concluding however that the attitude adopted by the complainant as well as the reasons given for her attitude gave rise to serious doubts about the degree of confidence that could be placed in her integrity, judgment and loyalty to the Organization; that the Board found justification for this opinion in stating that in a situation which, in its opinion, was clearly harmful to the Organization, the complainant maintained that adherence to her own personal views was more important than the interests of the Organization;

That this opinion restates in different terms the reasons invoked for the decision taken;

K. Considering however that when requested to give an opinion on the decision itself, the Appeals Board, presided over by an eminent magistrate enjoying the confidence of all parties and composed jointly of members appointed by the Director General and members appointed by the Staff Association, came unanimously to a diametrically opposed conclusion; that after a full hearing and a thorough study of all the facts in the case, it unanimously concluded that the complainants had not failed in the high standards required of members of the Secretariat, had not committed acts incompatible with the integrity required of them and had not disregarded the true interest of the Organization; that, as a consequence, the decisions to terminate them had no basis in law and that the said complainants had shown cause for requesting reinstatement; that the Tribunal fully agrees with this particularly authoritative opinion;

That the Court must besides take into consideration the due care required of it in appreciating the validity of the decision taken, by reason of the striking and indefensible disproportion between the alleged attitude of the complainant and the measure taken against her, putting an end to the career on which she based her future, when no complaint regarding her work had been alleged; that from this standpoint it is of no moment that the termination was not a disciplinary action in the formal sense of the Regulations and that certain indemnities were accorded,

when the fundamental result is to deprive the party concerned of her employment by exposing her to all the risks and distress of an uncertain future;

L. Considering that it is thus established that the ground for complaint of the Director General is based solely on the refusal of the official to participate in measures of verbal or written enquiry to which his national Government considers it necessary to subject him;

That the Director General of an international organization cannot associate himself with the execution of the policy of the Government authorities of any State member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that Organization towards the achievement of its own, exclusively international objectives;

That this duty of the Director General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organization in the following terms:

"The responsibilities of the Director General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organization undertakes to respect the international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties."

Considering that the fact that in this case the doubts raised as to the loyalty of the complainant to her own Government brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realize that if any one of the seventy-four States and Governments involved in the defendant Organization brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an enquiry in similar, or analogous conditions, the attitude adopted by the Director General would constitute a precedent obliging him to lend his assistance to such enquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence and the same application of Regulation 9.1.1. of the Staff Regulations, on the basis of any opposition by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organization;

M. Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to the high standards required of an international official;

That neither does it appear that the complainant placed her own interests above the true interest of the Organization, as defined above;

Considering therefore that the only ground for complaint adduced by the Director General to justify the application to the complainant of Regulation 9. 1. 1. of the Staff Regulations, that is to say her opposition to the investigations of her own Government, is entirely unfounded;

N. Considering that it results therefrom that the decision taken must be rescinded, the said decision not resting on any provision of the Staff Regulations; that nevertheless the Tribunal does not have the power to order reinstatement, which requires a positive act of the Director-General, over whom the Tribunal has no hierarchical authority;

That in the absence of such a power and unless the Director General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the measure of which she was the object;

ON PREJUDICE:

Considering that should the complainant not be reinstated with full rights, she should be compensated for the material and moral prejudice which she has suffered by reason of the decision taken;

That such prejudice may be assessed *ex acquo et bono* at two years' base salary, without any setoff of the indemnities which she has been accorded;

Considering that the annual base salary of the complainant amounted to 819,000 French francs;

That there are no grounds for allocating a supplementary indemnity by reason of the suspension with salary dated 10 December 1954, a measure which the Director General was entitled to take within the limits of his authority and which cannot be considered in the circumstances as having increased the prejudice suffered;

ON THE GROUNDS AS AFORESAID

THE TRIBUNAL,

Rejecting any wider or contrary conclusions,

Declares the complaint to be receivable as to form;

Declares that it is competent;

Orders the decision taken to be rescinded and declares in law that a legal basis therefor cannot be found in the Staff Regulations;

In consequence, should the defendant not reconsider the decision taken and reinstate the complainant, orders the said defendant to pay to the complainant an amount equal to 2 years' base salary, namely 1,638,000 French francs together with interest at 4 per centum from 20 June 1955, without any setoff of the indemnities accorded to her at the time of termination of her appointment;

Orders the defendant Organization to pay to the complainant the sum of \$300 by way of participation in the costs of her defense:

PRONOUNCING on the application to intervene made by M. Henquet;

Considering that such intervention is receivable in so far as it is made by M. Henquet in his own name, an official of the defendant Organization, holder of an indeterminate appointment;

Considering that the intervention is founded, in so far as recognized by this judgment;

Orders the defendant Organization to bear the expenses for which justification is provided by the intervenor up to a maximum of \$40.

In witness of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 29 October 1955, by His Excellency M. Albert Devéze, President, Jonkheer van Rijckevorsel, Judge, Acting Vice President, and M. Iasson Stavropoulos, Deputy Judge, called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signatures)

ALBERT DEVÈZE.

A. VAN RIJCKEVORSEL.

IASSON STAVROPOULOS.

FRANCIS WOLF.

EXHIBIT NO. 378—E

[Unofficial translation]

INTERNATIONAL LABOUR ORGANISATION

ADMINISTRATIVE TRIBUNAL

Judgment No. 24

FIFTH ORDINARY SESSION (PART II), GENEVA, OCTOBER 1955

Sitting of 29 October 1955

IN THE MATTER OF MISS HÉLÈNE VAN GELDER AGAINST UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

The Administrative Tribunal of the International Labour Organisation,

Having had referred to it a complaint submitted against the United Nations Educational, Scientific, and Cultural Organization on 13 September 1955 by Miss Hélène Van Gelder, a former official of that Organization, asking that the Tribunal be pleased to rescind the decision taken on 20 June 1955 terminating the complainant's appointment and, in default of reinstatement to enjoin the defendant Organization to pay to the complainant by way of damages a sum equivalent to three years salary together with an indemnity of \$10,000;

Considering the memorandum of reply to the said complainant submitted by the defendant Organization on 6 October 1955;

Having had referred to it a statement submitted in his own name, in his status as an official of the defendant Organization, holder of an indeterminate appointment, on 3 October 1955 by M. Pierre Henquet, Chairman of the Staff Association;

Having heard, on oath, in public sitting on 20 October 1955 Edward Joseph Phelan, witness cited by the complainant, whose deposition, certified true, is in the dossier;

Considering the pleadings exchanged by the representatives of the parties during the hearing;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organization on 29 July 1948;

(2) At the time when the decision complained of was taken the complainant was the holder of an indeterminate appointment, subject to a five-year review on 1 October 1959;

(3) In February 1953 the complainant received a questionnaire to be completed and returned in application of "Executive Order No. 10422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations" whose provisions apply to the defendant Organization by virtue of Part III of the Order in question; the complainant completed this questionnaire and returned it;

(4) In February 1954, the complainant received an interrogatory from the International Organizations Employees Loyalty Board of the United States Civil Service Commission set up by Executive Order No. 10459 of 2 June 1953 amending Executive Order No. 10422 of 9 January 1953 interrogatory to which the complainant replied;

(5) In July 1954, the complainant received an invitation to appear as from 15 July 1954 before the Loyalty Board, meeting at the United States Embassy in Paris;

(6) By letter dated 21 July 1954 the complainant informed the Director General of the reasons of conscience on which she based her refusal to appear;

(7) Subsequently the Director General received communications of the report of the Loyalty Board (advisory determination) dated 15 September 1954 in which it was stated that:

"* * * the Board finds that, on all the evidence, there is a reasonable doubt of the loyalty of Helen Julie Van Gelder to the Government of the United States."

(8) The complainant was herself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 27 September 1954, and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director General of the defendant Organization;

(9) On 28 September 1954 the Director General set up a Special Advisory Board consisting of members of the staff whose task was to "examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director General and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations"; the complainant appeared and explained her position before this Special Advisory Board;

(10) The complainant was informed by a note dated 10 December 1954 that she was suspended from her functions with pay until further notice in application of Rule 109.11 of the Staff Rules;

(11) By a note dated 17 December 1954 the complainant requested the Director General to reconsider his decision;

(12) The Director General declined to reconsider his decision and the complainant submitted an appeal to the UNESCO Appeals Board on 10 February 1955, asking that the decision to suspend her be rescinded;

(13) On 25 July 1955 the Appeals Board, by a majority, expressed the opinion that the decision of the Director General dated 10 December 1954 by which the complainant had been suspended from her functions with pay should be rescinded;

(14) Before the Appeals Board had taken its decision the Special Advisory Board, referred to in paragraph 9.1.1 of the Staff Regulations and appointed by the Director General in accordance with Rule 109.10 of the Staff Rules, heard the complainant in March 1955;

(15) By letter dated 20 June 1955 the Director General informed the complainant that her appointment was terminated on the same date. This letter stated *inter alia*:

"The Special Advisory Board which I appointed in accordance with Staff Regulation 9.1.1 has submitted its report to me on the matter concerning you.

"I have studied this report very carefully.

"I regret to inform you that I have come to the conclusion that your conduct indicated that you do not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations.

"I have come to this conclusion because of the attitude you have adopted to the investigation undertaken by the United States Government under Executive Order 10422, as amended by Executive Order 10459, which found its principal expression in your refusal to respond to the invitation to appear, in July 1954, before the International Organizations Employees Loyalty Board of the United States Civil Service Commission, and because, at no time up to this date, have you taken any steps or shown any desire to repair, or at least to mitigate, the harm done to the Organization by your refusal to appear before the Board.

"You could not have failed to realize that the attitude you have adopted gravely prejudiced the interests of the Organization.

"I have indicated, and in particular, at the Eighth Session of the General Conference, the seriousness of the consequences of such an attitude.

"In adopting and maintaining such an attitude, you have shown that you are not willing to regulate your conduct with the interests of the Organization only in view.

"I am therefore obliged to terminate your appointment with effect from the end of the day, 20 June 1955, under the provisions of Staff Regulation 9.1.1.

"In accordance with the terms of your indeterminate appointment you will receive an indemnity equivalent to [six] months pensionable remuneration.

"You will be paid salary and allowances in lieu of three months' notice.

"You will also receive any other payments to which you are entitled upon separation";

(16) By letter dated 24 June 1955 the complainant requested the Director General to reconsider his decision to terminate her appointment;

(17) By letter dated 27 June 1955 the Director General informed the complainant that he adhered to his decision;

(18) On 1 July 1955 the complainant submitted an appeal to the UNESCO Appeals Board asking that the Director General's decision dated 20 June 1955 be rescinded;

(19) On 29 July 1955 the Appeals Board by a majority expressed the opinion that the decision of 20 June 1955 by which the complainant's appointment was terminated should be rescinded;

(20) By letter dated 31 August 1955 the Director General informed the Chairman of the Appeals Board that he could not act in accordance with this opinion.

ON THE SUBSTANCE:

A. Considering that the decision of 20 June 1955 terminating the appointment of the complainant was taken in application of Regulation 9.1.1 of the Staff Regulations, as adopted by the UNESCO General Conference in Montevideo on 8 December 1954, this Regulation being in the following terms:

"The Director General may also, giving his reasons therefor, terminate the appointment of a staff member:

"(a) If the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations;

"(b) If facts anterior to the appointment of the staff member and relevant to his suitability or which reflect on his present integrity come to light, which, if they had been known at the time of his appointment should, under the standards established in the Constitution, have precluded his appointment.

"No termination under the provisions of this Regulation shall take effect until the matter has been considered and reported on by a special advisory board appointed for that purpose by the Director General";

Considering that where the Director General acts within the provisions of Regulation 9.1.1 he has only the statutory powers conferred on him by the General Conference; that in a particular case the Tribunal's appreciation and review of the exercise of this power consists in examining whether in fact the circumstances of the case are such as to justify the application thereof; that if this were not to be the case the application of this power would be at the Director General's sole pleasure;

Considering that Regulation 9.1.1 expressly provides that reasons must be given for taking the measures set forth therein and that the matter be first

reported on by a Special Advisory Board appointed for that purpose by the Director General;

B. Considering that in this case the decision is expressly motivated by the attitude taken by the complainant with respect to the measures of investigation provided by the Government of the United States in application of Executive Orders No. 10422 and 10459, this attitude consisting principally in the refusal of the complainant to accede to the invitation to appear before the Loyalty Board in July 1954, and by the fact that after that date the complainant took no steps nor showed any wish to repair or mitigate the harm which was deemed to have been suffered by the Organization as a result of her refusal to appear, when she could not ignore the gravity of such harm;

Considering that the submissions of the defendant oblige the Tribunal, in order to carry out its functions under the provisions of Article II of its Statute, to seek in what manner and to what extent the interests of the Organization may have been prejudiced;

Considering that the difficulties having arisen within the defendant Organization are that one Member State, in default of obtaining the removal of those of its citizens being officials finding themselves in a situation similar to that of the complainant, appeared to be considering withdrawing its participation and support from the Organization; that in particular in express statement in this sense was made before the Subcommittee on Appropriations of the House of Representatives of this State by one of the members of the delegation of the said State at the Montevideo Conference;

That it is significant that the Director General, on 10 December 1954, that is to say on the date following that on which the Staff Regulations conferred upon him the new power, invoked such power against the three parties concerned, in order to suspend them from their duties and to take those procedural measures against them a rising out of which the decisions to terminate them, now before the Tribunal, were taken;

That besides there is no indication that there was any other reason for considering that the interests of the Organization were imperiled;

That the safeguarding *crga omnes* of the independence and impartiality of the Organization is also vital and must not be lost sight of;

C. Considering that the complainant could, in conscience, be persuaded that she was within her rights, that besides it has never been alleged that the complainant had been the object of legal proceedings in her own country by reason of the attitude complained against, since a purely administrative procedure was involved; that exception could not be taken against her, for having failed in her employment to determine precisely the gravity and imminence of the danger which may have imperiled certain interests of the Organization;

Considering that no exception can be taken against her on such grounds nor could she be reproached with having abstained from taking steps for which no particulars were given and in addition never requested of her, in order to repair or mitigate the difficulties to which the Organization was subject;

Considering that the Director General adduces however from the complainant's attitude and from the maintenance of this attitude that the complainant showed that she did not wish to regulate her conduct with the interests of the Organization only in view;

That in consequence on 20 June 1955 the Director General terminated the complainant's appointment with immediate effect (at the same time according to her those indemnities to which she was entitled under Regulation 9.3 of the Staff Regulations and Rule 104.7(e) of the Staff Rules), after having consulted the Special Advisory Board set up in Regulation 9.1.1 of the Staff Regulations and after carefully studying, as he states, the report of this Board:

D. Considering that it must be observed that the decision taken is based solely on paragraph (a) of Regulation 9.1.1 of the Staff Regulations which gives to the Director General the power to terminate an official's appointment "if the conduct of the staff member indicates that the staff member does not meet the highest standards required by Article VI of the Constitution and by Chapter I of the Staff Regulations";

That, on the basis of the wording, the clear distinction between the notions respectively of integrity and loyalty is henceforward not in issue; that the grounds adduced are based on the duty of officials "to conduct themselves at all times in a manner befitting their status as international civil servants", "to bear in mind the reserve and tact incumbent upon them by reason of their international status.", and at no time to lose sight of the interests of the international organization for which they serve;

Considering that paragraph (5) of Regulation 9.1.1 deals only with facts anterior to appointment or facts which, if they had been known at the time of the appointment should have precluded the appointment, such facts not having been demonstrated and not being in issue in this case,

E. Considering besides that there is no other motive in the case which can be invoked in justification of termination;

That the Special Advisory Board which had been voluntarily set up by the Director General within the defendant Organization, as early as September 1954, expressly stated that it could find no evidence either in the reports of the Loyalty Board or as a result of its own enquiries that the complainant, during her employment in the Secretariat of the defendant Organization, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

That it results from the complainant's performance reports that she has never been the subject of any reproach; that on the contrary the appreciations contained therein were entirely laudatory as regards her work and performance and that she was promoted;

That the Director General was therefore entirely correct in not invoking against her any misconduct, breach of professional duty or unsatisfactory service; that on the contrary the representative of the defendant Organization has pointed out on several occasions that termination for disciplinary reasons was not in issue and that the sole issue was the determination of an appointment, with payment of indemnities, under the new Regulations on which the Director General relies;

F. Considering that the defendant Organization objects to the production of the report of the Special Advisory Board which was set up in 1955 on the basis of the amended Regulations adopted by the General Conference;

That this objection is motivated by a text inserted by the Director General himself in the rules which he drew up in order to give effect to the new provisions of the Staff Regulations by virtue of the powers conferred on him under the said Regulations; that this text stipulates (Staff Rule 109.10) that the proceedings and reports of the Board shall be secret and confidential;

That if this provision made by the Director General in application of the regulations adopted by the General Conference were to be considered as lawful, it would have as its effect to remove from the Special Advisory Board its principal object; that in reporting to the Administrative Commission of the General Conference (document SC/ADM/14, paragraph 11), the author of the text declared himself on the subject of this Advisory Board as follows: "This is one way in which it is considered that staff members may be protected from the possibility of arbitrary decisions"; that where the opinion given is confidential to the Director General alone, such additional guarantee promised against arbitrary decisions is unavailing;

That where the competent jurisdiction for reviewing the decision of the Director General is not able, any more than the complainant, to have cognizance of the opinion of the Special Advisory Board, and where, besides, the Director General is entirely free not to take account of such opinion and is thereby not subject to any outside review, it would have sufficed to permit the Director General to be counseled accordingly thereon by such advisers as he thought fit; that this cannot be imagined to have been the impression which led to the vote in the General Conference, the Conference being manifestly desirous to effectively protect staff members whose appointments would be terminated under Staff Regulation 9.1.1, from arbitrary decisions;

Considering that the deposition made under oath by Mr. Phelan, Chairman of the said Board, cited as a witness, shows that the members of the Board did not, in accepting to serve, impose a condition of secrecy; that they questioned the Director General on his intentions in this regard, which was proper, but did not have as a legal result to deprive the Director General from disposing of the report as he thought fit;

That the objection to the production of the report of the Board which was available to the Director General removes an element from the appreciation of the Tribunal competent to pronounce on the regularity of the decision taken; that the regulations having been observed in the letter the Tribunal may not order thereon, but that in any event it was unable in its consultations to take into account this unknown element;

G. Considering that the complainant submits that the provisions of the new Regulations adopted in December 1954 are not applicable in her case since the facts set up against her took place prior to such adoption;

That this submission is unfounded, the Director General having been accorded the power to review the conduct of a staff member, the appointment of whom is to be terminated, solely with regard to the high standards required of an international official, and that he is free in this respect to take into account those elements on which he considers his decision may be based;

That without doubt, the granting of such a power opens the door to a great extent to arbitrary decisions; that it fully justifies the preoccupations of those desirous of providing at the same time sure and effective guarantees; that the Administrative Tribunal must watch over the jurisdictional review which it exercises; but that the texts exclude the submission based on their retroactive applications;

H. Considering that where the Director General has the power to terminate an indeterminate appointment, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organization;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Regulation 1.4 of the Staff Regulations of the defendant Organization is as follows:

"Members of the Secretariat shall conduct themselves at all times in a manner befitting their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organization. They shall avoid any action and in particular any kind of public pronouncement which may adversely reflect on their status, or on the integrity, independence, and impartiality which are required by that status. While they are not expected to give up their national sentiments, or their political and religious convictions, they shall at all times bear in mind the reserve and tact incumbent upon them by reason of their international status";

Considering that, in thus clearly establishing the entire freedom of conscience recognized to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organization to which they owe their loyalty and devotion;

I. Considering that, when consulted by the Staff Association of the defendant Organization on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board it is established that the complainant approached the Director General only at a late date, so that the latter would not have been able to give her advice in sufficient time;

J. Considering that, in order to review all factors, it is necessary to enquire whether the acts or omissions of the complainant could be considered as justifying the application of paragraph (a) of Regulation 9.1.1 of the Staff Regulations, on the grounds that in themselves they caused doubt to exist as to whether she fulfilled the highest standards required of an international official;

Considering that the complainant does not challenge the legitimate character of the enquiry made within the staff by the Special Advisory Board set up by the Director General on 28 September 1954, following the submission to the Director General of the report made against her by the Loyalty Board in default of her appearance;

That this measure is in accordance with the undertaking made with the State member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organization: that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director General would "be studied with care" and that he would "certainly give every consideration to it, in the light of the Constitution of UNESCO and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of UNESCO";

That the Special Advisory Board set up on 28 September 1954 expressed the opinion, as referred to above, that it could find no evidence that the complainant had engaged or was engaging in activities during her employment, that could be shown to be misconduct under the Staff Regulations and Staff Rules; the

Board concluding however that the attitude adopted by the complainant as well as the reasons given for her attitude gave rise to serious doubts about the degree of confidence that could be placed in her integrity, judgment, and loyalty to the Organization; that the Board found justification for this opinion in stating that in a situation which, in its opinion, was clearly harmful to the Organization, the complainant maintained that adherence to her own personal views was more important than the interests of the Organization;

That this opinion restates in different terms the reasons invoked for the decision taken;

K. Considering however that when requested to give an opinion on the decision itself, the Appeals Board, presided over by an eminent magistrate enjoying the confidence of all parties and composed jointly of members appointed by the Director General and members appointed by the Staff Association, came unanimously to a diametrically opposed conclusion; that after a full hearing and a thorough study of all the facts in the case, it unanimously concluded that the complainants had not failed in the high standards required of members of the Secretariat, had not committed acts incompatible with the integrity required of them and had not disregarded the true interest of the Organization; that, as a consequence, the decisions to terminate them had no basis in law and that the said complainants had shown cause for requesting reinstatement; that the Tribunal fully agrees with this particularly authoritative opinion;

That the Court must besides take into consideration the due care required of it in appreciating the validity of the decision taken, by reason of the striking and indefensible disproportion between the alleged attitude of the complainant and the measure taken against her, putting an end to the career on which she based her future, when no complaint regarding her work had been alleged; that from this standpoint it is of no moment that the termination was not a disciplinary action in the formal sense of the Regulations and that certain indemnities were accorded, when the fundamental result is to deprive the party concerned of her employment by exposing her to all the risks and distress of an uncertain future;

L. Considering that it is thus established that the ground for complaint of the Director General is based solely on the refusal of the official to participate in measures of verbal or written enquiry to which his national Government considers it necessary to subject him;

That the Director General of an international organization cannot associate himself with the execution of the policy of the Government authorities of any State member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that Organization towards the achievement of its own exclusively international objectives;

That this duty of the Director General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organization in the following terms:

"The responsibilities of the Director General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organization undertakes to respect the international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties."

Considering that the fact that in this case the doubts raised as to the loyalty of the complainant to her own Government brought by a Government which enjoys in all respects the highest prestige must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure:

That it will suffice to realize that if any one of the seventy-four States and Governments involved in the defendant Organization brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an enquiry in similar or analogous conditions, the attitude adopted by the Director General would constitute a precedent obliging him to lend his assistance to such enquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence and the same application of Regulation 9.1.1 of the Staff Regulations, on the basis of any opposition by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prej-

judicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organization;

M. Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to the high standards required of an international official;

That neither does it appear that the complainant placed her own interests above the true interest of the Organization, as defined above;

Considering therefore that the only ground for complaint adduced by the Director General to justify the application to the complainant of Regulation 9.1.1 of the Staff Regulations, that is to say her opposition to the investigations of her own Government, is entirely unfounded;

N. Considering that it results therefrom that the decision taken must be rescinded, the said decision not resting on any provision of the Staff Regulations; that nevertheless the Tribunal does not have the power to order reinstatement, which requires a positive act of the Director General, over whom the Tribunal has no hierarchical authority;

That in the absence of such a power and unless the Director General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the measure of which she was the object;

ON PREJUDICE:

Considering that should the complainant not be reinstated with full rights, she should be compensated for the material and moral prejudice which she has suffered by reason of the decision taken;

That such prejudice may be assessed *ex aequo et bono* (at two years' base salary, without any set off of the indemnities which she has been accorded;

Considering that the annual base salary of the complainant amounted to 1,130,-000 French francs;

That there are no grounds for allocating a supplementary indemnity by reason of the suspension with salary dated 10 December 1954, a measure which the Director General was entitled to take within the limits of his authority and which cannot be considered in the circumstances as having increased the prejudice suffered;

ON THE GROUNDS AS AFORESAID

THE TRIBUNAL,

Rejecting any wider or contrary conclusions,

Declares the complaint to be receivable as to form;

Declares that it is competent;

Orders the decision taken to be rescinded and declares in law that a legal basis therefor cannot be found in the Staff Regulations;

In consequence, should the defendant not reconsider the decision taken and reinstate the complainant, orders the said defendant to pay to the complainant an amount equal to two years' base salary, namely 2,260,000 French francs together with interest at 4 per centum from 20 June 1955, without any set off of the indemnities accorded to her at the time of termination of her appointment;

Orders the defendant Organization to pay to the complainant the sum of \$300 by way of participation in the costs of her defence;

PRONOUNCING on the application to intervene made by M. Henquet;

Considering that such intervention is receivable in so far as it is made by M. Henquet in his own name, an official of the defendant Organization, holder of an indeterminate appointment;

Considering that the intervention is found, in so far as recognized by this judgment;

Orders the defendant Organization to bear the expenses for which justification is provided by the intervener up to a maximum of \$40.

In witness of which judgment, pronounced at the Palais des Nations, Geneva, in public sitting on 29 October 1955, by His Excellency M. Albert Devèze, President, Jonkheer van Rijckevorsel, Judge, Acting Vice President, and M. Iasson Stavropoulos, Deputy Judge, called upon to sit owing to the inability of a titular judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signatures) ALBERT DEVÈZE.

A. VAN RIJCKEVORSEL.

IASSON STAVROPOULOS.

FRANCIS WOLF.

EXHIBIT No. 378-F

[Unofficial translation]

INTERNATIONAL LABOUR ORGANISATION

ADMINISTRATIVE TRIBUNAL

Judgment No. 19

ORDINARY SESSION OF APRIL 1955

Sitting of 26 April 1955

IN THE MATTER OF MRS. ANNETTE WILCOX AGAINST UNITED NATIONS EDUCATIONAL,
SCIENTIFIC, AND CULTURAL ORGANISATION

The Administrative Tribunal of the International Labour Organisation,

Having had referred to it a complaint submitted against the United Nations Educational, Scientific, and Cultural Organisation on 5 February 1955 by Mrs. Annette Wilcox, an official of that Organisation, asking that the Tribunal be pleased to rescind the decision taken by the Director General on 13 August 1954 and to enjoin the Director General to renew the contract of the complainant and to pay her the sum of one franc in respect of damages and legal costs;

Considering the memorandum of reply to the said complaint submitted by the defendant Organisation on 19 March 1955;

Having had referred to it a statement submitted in his own name on 20 April 1955 by M. Pierre Henquet, Chairman of the Staff Association of UNESCO;

Considering the pleadings exchanged by the representatives of the parties during the hearing and in particular the statement by the complainant that her alternative claim for damages would amount to the sum of \$70,300;

Considering that the complaint is receivable in form;

Considering that the facts of the case are the following:

(1) The complainant took up her duties with the defendant Organisation on 1 June 1950;

(2) At the time when the decision complained of was taken, the complainant was the holder of a fixed-term contract of one year's duration expiring on 31 December 1954;

(3) In February 1953, the complainant received from the representative of the United States to the defendant Organisation a questionnaire to be completed and returned in application of "Executive Order No. 10,422 of the President of the United States dated 9 January 1953 prescribing procedures for making available to the Secretary General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations", whose provisions apply to the defendant Organisation by virtue of Part III of the Order in question; the complainant completed this questionnaire and returned it on 13 February 1953;

(4) In February 1954, the complainant received an interrogatory from the International Organisations Employees Loyalty Board of the United States Civil Service Commission, set up by Executive Order No. 10,459, of 2 June 1953, amending Executive Order No. 10,422 of 9 January 1953, interrogatory to which the complainant did not reply;

(5) In June 1954, the complainant received an invitation, dated 18 June, to appear on 15 July before the Loyalty Board meeting at the United States Embassy in Paris;

(6) By letter dated 16 July 1954, the complainant informed the Director General of the reasons of conscience on which she based her refusal to appear;

(7) By letter dated 13 August 1954, the Director General informed the complainant that he would not offer her a new contract on the expiry of the contract at that time in force. This letter stated, *inter alia*:

"* * * In the light of what I believe to be your duty to the Organisation, I have considered very carefully your reasons for not appearing before the International Employees Loyalty Board where you would have had an opportunity of dispelling suspicions and disproving allegations which may exist regarding you.

"It is with a deep sense of my responsibilities that I have come to the conclusion that I cannot accept your conduct as being consistent with the high standards of integrity which are required of those employed by the Organization.

"I have, therefore, to my regret, to inform you that I shall not offer you a further appointment when your present appointment expires * * *";

(8) By a letter dated 21 August 1954, the complainant requested the Director General to reconsider his decision;

(9) The Chief of the Bureau of Personnel and Management informed the complainant in a letter dated 30 August 1954 of the Director General's refusal to do so;

(10) By a letter of 14 September 1954, the Director General received communication of the report of the Loyalty Board (advisory determination) in which it was stated that: "it has been determined on all the evidence, that there is a reasonable doubt as to the loyalty of Irene Annette Wilcox to the Government of the United States" and that "this determination, together with the reasons therefor, in as much detail as security considerations permit, are submitted for your use in exercising your rights and duties with respect to the integrity of the personnel employed by the United Nations Educational, Scientific, and Cultural Organization";

(11) The complainant was herself informed of the conclusions of the Loyalty Board by letter of the Chairman of the Loyalty Board dated 15 September 1954 and was also informed of the fact that the report of the Loyalty Board had been transmitted to the Director General of the defendant Organisation;

(12) On 23 September 1954, the complainant submitted an appeal to the UNESCO Appeals Board asking that the above-mentioned decision should be rescinded;

(13) On 2 November 1954, the Appeals Board, by a majority opinion, expressed the opinion that the decision should be rescinded;

(14) By a letter dated 25 November 1954, the Director General informed the Chairman of the Appeals Board that he could not act in accordance with this opinion;

(15) Before the Appeals Board had taken its decision, the Director General, on 28 September 1954, set up a Special Advisory Board consisting of members of the staff, whose task was to "examine the cases of certain staff members on the basis of certain information which has been brought to the knowledge of the Director General, and in the light of the standards of employment and conduct prescribed by the Constitution and Staff Regulations";

(16) The complainant appeared and explained her position before this Special Advisory Board. However, in a letter dated 5 October 1954 to the Chairman of the Appeals Board of the defendant Organisation, the complainant expressed full reservations to the legality of the procedure of the Board and the measures which might result from it.

ON COMPETENCE:

Considering that the character of a fixed-term appointment is in no way that of a probationary appointment, that is to say of a trial appointment;

That while it is the case that UNESCO Staff Rule 104.6 issued in application of the Staff Regulations stipulates that: "A fixed-term appointment shall expire, without notice or indemnity, upon completion of the fixed term * * *", this text only deals with the duration of the appointment and in no way bars the Tribunal from being seized of a complaint requesting the examination of the validity of the positive or negative decision taken regarding the renewal of the said appointment;

That it is established in the case that the Director General, by a general measure of which the whole staff was informed on 6 July 1954, "decided that all professional staff members whose contracts expire between now and 30 June 1955 (inclusive) and who have achieved the required standards of efficiency, competence, and integrity, and whose services are needed, will be offered one-year renewals of their appointments";

That the complainant, having been made the object of an exception to this general measure, holds that the Director General could not legitimately thus make an exception of her on the sole ground which he invoked against her as justification for the view that she did not possess the quality of integrity recognised in those of her colleagues whose contracts had been renewed, and in the absence of any contestation of her qualities of competence and efficiency;

That the complainant requests that this decision be rescinded and, alternatively, that an indemnity be granted;

Considering that the question is thus a dispute concerning the interpretation and application of the Staff Regulations and Rules of the defendant Organisation:

That by virtue of Article II, paragraph 1, of its Statute, the Tribunal is competent to hear the said dispute;

ON THE SUBSTANCE:

A. Considering that the defendant Organisation holds that the renewal or the nonrenewal of a fixed-term appointment depends entirely on the personal and sovereign discretion of the Director General who is not even required to give his reason therefor;

Considering that if this were to be so, any unmotivated decision would not be subject to the general legal review which is vested in the Tribunal, and would be liable to become arbitrary;

Considering that, in fact, it may be conceived that this might exceptionally be the case when, for example, it is a matter of assessing the technical suitability of the person concerned for carrying out his duties;

Considering, however, that in this matter the question does not affect the issue inasmuch as the Director General has not only given the reason for the decision taken by him but has also made it public in a communiqué issued to the press;

That this reason is based solely on the refusal of the complainant to cooperate in the measures of investigation provided in respect of certain of its nationals by the Government of the State of which she is a citizen, and in particular on her refusal to appear before a commission invested by that Government with the power to investigate her loyalty to that State;

That the Director General declares that he concludes from this that he can no longer retain his confidence in the complainant and offer her a new appointment, her attitude being incompatible with the high standards of integrity required of those who are employed by the Organisation and being, furthermore, capable of harming the interests of the Organisation;

Considering in relation hereto that it is necessary expressly to reject all uncertainty and confusion as to the meaning of the expression "loyalty towards a State" which is entirely different from the idea of "integrity" as embodied in the Staff Regulations and Rules; and that this is evident and requires no further proof;

B. Considering that if the Director General is granted authority not to renew a fixed-term appointment and so to do without notice or indemnity, this is clearly subject to the implied condition that this authority must be exercised only for the good of the service and in the interest of the Organisation;

Considering that it is in the light of this principle that the facts in this case should be examined;

Considering that Article 1.4 of the Staff Regulations of the defendant Organisation, as it stood at the moment when the decision complained of was taken, was as follows:

"Members of the Secretariat shall conduct themselves at all times in a manner consonant with the good repute and high purposes of the Organization and their status as international civil servants. They shall not engage in any activity that is incompatible with the proper discharge of their duties. They shall avoid any action, and in particular any kind of public pronouncement, which would adversely reflect upon their status. While they are not expected to give up religious or political convictions or national sentiments, they shall at all times exercise the reserve and tact incumbent upon them by reason of their international responsibilities."

Considering that, in thus clearly establishing the entire freedom of conscience recognized to international officials in respect of both their philosophical convictions and their political opinions, the Regulations impose on them the duty to abstain from all acts capable of being interpreted as associating them with propaganda or militant proselytism in any sense whatever;

That this abstention is rigorously imposed on them by the overriding interest of the international organisation to which they owe their loyalty and devotion;

C. Considering that, when consulted by the Staff Association of the defendant Organisation on the obligation incumbent on members of the staff to reply to questionnaires issued by authorities of their respective countries, the Director General declared that the answer must depend only on the conscience of the individual, except that he should not lie and should have regard to the consequences which the refusal to reply might have for him;

Considering, however, that in respect of the invitation to appear before the Loyalty Board, it is established that the complainant simply informed the Director General after the date on which she had been called on to appear, of her decision not to appear;

Considering that it is desirable to determine whether the attitude adopted by the complainant in this respect may be considered as justifying the loss of confidence alleged by the Director General;

D. Considering that it is undoubtedly true that if the Director General has been informed that a member of his staff has acted in a manner prohibited by Article 1.4 of the Staff Regulations, the Director General has a duty to check the accuracy of such information either himself or through persons appointed by him from within his Organisation, in order that he may take decisions or even sanctions, if necessary, in the full knowledge of the facts;

That in this light the enquiry procedure within the Secretariat to which the Director General resorted in the present case in full exercise of his authority can in no sense be subject to criticism; that it is in accordance with the undertaking made with the State Member concerned under arrangements approved by the Executive Board and General Conference of the defendant Organisation; that this was solely an undertaking that any information which the Government of the State concerned might desire to submit to the Director General would "be studied with care" and that he would "certainly give every consideration to it, in the light of the Constitution of UNESCO and all other relevant provisions and policies which may have been or may be laid down by the appropriate organs of UNESCO";

That the objection raised in this regard by the complainant is totally unfounded;

E. Considering that it is quite different when the ground for complaint of the Director General is based solely on the refusal of the official to participate in measures of verbal or written enquiry to which his national Government considers it necessary to subject him;

That the Director General of an international organisation cannot associate himself with the execution of the policy of the government authorities of any State Member without disregarding the obligations imposed on all international officials without distinction and, in consequence, without misusing the authority which has been conferred on him solely for the purpose of directing that organisation towards the achievement of its own, exclusively international, objectives;

That this duty of the Director General is governed by Article VI, paragraph 5, of the Constitution of the defendant Organisation, in the following terms:

"The responsibilities of the Director General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any Government or from any authority external to the Organization. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organization undertakes to respect the international character of the responsibilities of the Director General and the staff, and not to seek to influence them in the discharge of their duties."

Considering that the fact that in this case the matter involved is an accusation of disloyalty brought by a Government which enjoys in all respects the highest prestige, must be without any influence upon the consideration of the facts in the case and the determination of the principles whose respect the Tribunal must ensure;

That it will suffice to realise that if any of the seventy-two States and Governments involved in the defendant Organisation brought against an official, one of its citizens, an accusation of disloyalty and claimed to subject him to an enquiry in similar or analogous conditions, the attitude adopted by the Director General would constitute a precedent obliging him to lend his assistance to such enquiry and, moreover, to invoke the same disciplinary or statutory consequences, the same withdrawal of confidence, on the basis of any opposition by the person concerned to the action of his national Government;

That if this were to be the case there would result for all international officials, in matters touching on conscience, a state of uncertainty and insecurity prejudicial to the performance of their duties and liable to provoke disturbances in the international administration such as cannot be imagined to have been in the intention of those who drew up the Constitution of the defendant Organisation;

Considering therefore that the only ground for complaint adduced by the Director General to justify the application to the complainant of an exception to the general rule of renewal of appointments, that is to say her opposition to the investigations of her own Government, is entirely unjustified;

Considering that it is in vain that it is alleged that the terms of renewal set forth in the Director General's circular of 6 July 1954, after enumeration of the standards required, provide that the services of the person concerned must be needed; that this expression cannot mean that the person concerned must be irreplaceable, in that no successor can be found; that it means only

that the requirements of the service to which the person concerned is assigned must be permanent and that the said person must give full satisfaction therein and otherwise in all manner in the performance of his or her duties; that on this last point the appreciations contained in the annual reports of the complainant are entirely laudatory;

Considering that it results therefrom that the decision taken must be rescinded; but that nevertheless the Tribunal does not have the power to order the renewal of a fixed-term appointment, which requires a positive act of the Director General over whom the Tribunal has no hierarchical authority;

That in the absence of such a power and unless the Director General should consider himself in a position to reconsider his decision in this manner, the Tribunal is none the less competent to order equitable reparation of the damage suffered by the complainant by reason of the discriminatory treatment of which she was the object;

F. Considering that it results from the documents produced by the parties during the hearing that the enquiry made by order of the Director General himself within the defendant Organisation, the legitimate and regular character of which has been shown above, did not bring any evidence to show that the complainant failed in her duties, as defined in Article 1.4 of the Regulations, during the period that she was an official of the defendant Organisation;

That this Special Board considered that it could find no evidence either in the reports of the Loyalty Board or as a result of its own enquiries that the complainant, during her employment in the Secretariat of the defendant Organisation, had engaged in or was engaging in activities that could be shown to constitute misconduct under the terms of the Staff Regulations and Rules;

Considering that it is irrelevant to seek whether or not the complainant was engaged in militant political activities before being appointed to the international service and at a time when she was not bound by the obligations involved in joining this service, unless it has been proved that she had been guilty of dishonourable or criminal acts (*actes déshonorants ou criminels*);

That any accusation of this nature could only be admitted if drawn up both in due form and with all the precision required to ensure respect for the right of the accused person to defend herself;

That it is not so in this case;

Considering that it has been shown above that the attitude of the complainant towards the Loyalty Board in no way justifies the existence of serious doubts as to her integrity, judgment, and loyalty towards the defendant Organisation;

That it does not therefore appear that the complainant placed her own interests above the true interest of the Organisation, which interest consists above all in safeguarding *erga omnes* its independence and impartiality;

ON PREJUDICE:

Considering that an official who combines all the necessary qualities has a legitimate expectancy of being offered a new appointment in the position which he or she occupied, and that this expectancy was fulfilled for all the persons concerned, with the exception of a certain number, of whom the complainant;

That not only is such an almost absolute *quod plerumque fit* but also that in thus acting the Administration of the defendant Organisation has as its objective to create a permanent body of officials experienced in their duties, who are destined to follow a career in the Organisation concerned;

That the decision not to renew the appointment is one which should not only be rescinded in the present case, but also constitutes a wrongful exercise of powers and an abuse of rights which consequently involves the obligation to make good the prejudice resulting therefrom; that this prejudice was aggravated by the publicity given to the withdrawal of confidence as being due to lack of integrity, this ground having been given in a press communiqué issued by the defendant Organisation, without it being possible seriously to maintain the view that there could have existed the slightest doubt as to the identity of the persons to which the said communiqué referred;

Considering that it is to no purpose that they have been reproached with having communicated the measures of which they were the object to the Staff Association recognised by the Defendant Organisation, as the upshot of a procedure to which the said Association was a party with the knowledge and consent of the Director General himself;

Considering that redress will be ensured *ex aequo et bono* by the granting to the complainant of the sum set forth below;

Considering that, on the one hand, there should be granted to the complainant the amount of the salary which she would have received had she not been sub-

ject to the measure of exception of which she complains, that is to say one year's basic salary;

That, on the other hand, there should be granted to her a second year's basic salary in order to compensate for the moral prejudice and in particular the difficulties which she will encounter in seeking new means of subsistence;

ON THE GROUNDS AS AFORESAID

THE TRIBUNAL,

Rejecting any wider or contrary conclusions,

Declares the complaint to be receivable as to form;

Declares that it is competent;

Orders the decision taken to be rescinded and declares in law that it constitutes an abuse of rights causing prejudice to the complainant;

In consequence, should the defendant not reconsider the decision taken and renew the complainant's appointment, orders the said defendant to pay to the complainant the sum of \$15,500, together with interest at 4 per centum from 1 January 1955;

Orders the defendant Organisation to pay to the complainant the sum of \$300 by way of participation in the costs of her defence;

PRONOUNCING on the application to intervene made by M. Henquet;

Considering that such intervention is receivable in so far as it is made by M. Henquet in his own name;

That in this instance the fact that the intervener holds an indeterminate appointment and not a fixed-term appointment does not prevent the present dispute from bearing on principles applicable to the legal position of the whole staff;

Considering that the intervention is founded, in so far as recognised by the present judgment, orders the defendant Organisation to bear the expenses for which justification is provided by the intervener up to a maximum of \$40.

In witness of which judgment, pronounced in public sitting on 26 April 1955 by His Excellency M. Albert Devèze, President, Professor Georges Scelle, Vice President, and Jonkheer van Rijckevorsel, Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Wolf, Registrar of the Tribunal.

ALBERT DEVÈZE.
GEORGES SCELLE.
A. VAN RIJCKEVORSEL.
FRANCIS WOLF.

Mr. WALDMAN. I might say anent that, we have been wanting to find out some of the things—in other words, we were interested in what happened before the other Board, and it was difficult to get, especially where the agency was in Europe.

Mr. SOURWINE. As a matter of fact, your Board has been subjected to criticism, international, at least, and certainly by this organization of UNESCO, for sending the advisory opinions in the cases of these seven, and you have been a little bit at a loss to defend yourself against anything, and you felt you needed a defense, because you haven't been able to discuss the cases; is that right?

Mr. WALDMAN. In the loyalty field you are ever at a disadvantage, frequently there can be criticism all around and you don't dare to defend yourself or engage in public debate. We have avoided taking some criticism, and maybe some of it is lawful, I don't know.

Mr. SOURWINE. So as far as you know, this hearing today is the first time that the adverse information about the discharges of UNESCO people who got the large indemnities has ever been made public; isn't it?

Mr. WALDMAN. That is true.

Mr. SOURWINE. I might say, Mr. Chairman, that the summaries of that information which I read are not the result of a committee investigation, that is the adverse information which was available to the Board at the time they ordered hearings in these cases. This information was given to the committee in executive session by Mr. Gerety when he testified before the committee some time ago.

Senator JOHNSTON. That statement is correct; isn't it?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. Mr. Chairman, here is a summary of action taken by the Board with respect to these named individuals. I am inclined to think that it may be excess in view of the larger statement which has been offered for the record—you are going to leave that with us, aren't you, that big chart?

Mr. WALDMAN. Yes, sir.

Mr. SOURWINE. I would like, Mr. Chairman, for an alternative order in this case, if it does not duplicate the information already in the record, I would like to have it in there, and if it does duplicate it, we will simply have another one.

Senator JOHNSTON. We will receive it, with the understanding that after we check all of the record, it will go in if we need it, and if we do not need it we will leave it out.

(The chart referred to was marked "Exhibit No. 379" and is as follows:)

EXHIBIT NO. 379

Name	Executive order forms received	Forms transmitted to Board	Board hearing	Advisory determination	Transmittal of advisory determination	Termination	Remarks
Leff, David ¹ Van Gelder, Helene ⁴	(2) Feb. 19, 1953	Feb. 19, 1953 (2)	July 16, 1954 ³ July 22, 1954 ³	July 23, 1954 Sept. 16, 1954	July 23, 1954 Sept. 21, 1954	Dec. 31, 1954 June 20, 1955	Contract expired; not renewed. Suspended Dec. 10, 1954 from indeterminate appointment subject to 5-year review on Oct. 1, 1959.
Froma, Ruth	Feb. 20, 1953	Feb. 20, 1953 (2)	July 19, 1954 ³	Aug. 27, 1954	Sept. 3, 1954	June 20, 1955	Suspended Dec. 10, 1954 from indeterminate appointment.
Pankey, Mrs. Kathryn Bernstein, Kathryn	Feb. 24, 1953	Feb. 24, 1953 (2)	July 13, 1954 ³ July 9, 1954 ³	Aug. 31, 1954 Aug. 31, 1954	Sept. 3, 1954 Sept. 3, 1954	June 20, 1955 Feb. 14, 1955	Contract expired Feb. 14, 1955, not renewed.
Duberg, Norwood Peter	Feb. 20, 1953	Feb. 20, 1953 (2)	July 15, 1954 ³	Aug. 27, 1954	Sept. 3, 1954	Dec. 31, 1954	Contract of 1 year's duration.
Wilcox, Irene Annette	Feb. 20, 1953	Feb. 20, 1953 (2)	July 16, 1954 ³	Sept. 16, 1954 ⁴	Sept. 8, 1954	Dec. 31, 1954	Contract expired Dec. 31, 1954, not renewed.
Behrstock, Inlian	Feb. 20, 1953	Feb. 20, 1953 (2)	July 15, 1954 ³	Sept. 15, 1954 ⁴	Sept. 17, 1954 ⁵	Dec. 31, 1954	Do.
McIntire, Gordon	Feb. 25, 1953	Feb. 25, 1953 (2)	Mar. 31, 1955	Apr. 7, 1955 ⁷	Apr. 7, 1955 ⁸	June 4, 1954	Upon further hearing at which time additional information was supplied, unfavorable determination changed to favorable.
				None	Mar. 26, 1953 ¹⁰	June 4, 1954	No final determination issued as employee terminated from employment.

¹ Advisory determination prepared and presented in Paris.² No forms to SY Mar. 31, 1953.³ No appearance.⁴ Answered interrogatory.⁵ Unfavorable.⁶ Not terminated.⁷ Favorable.⁸ Favorable determination transmitted by IOELB directly to Paris.
⁹ None prior to interim report and termination; McIntire requested that he be able to appear before Board when it was in Rome in 1956. McIntire did appear approximately July 23, 1956.¹⁰ Interim report.

Mr. SOURWINE. Mr. Chairman, I have here two documents which I do not offer for the printed record, but I believe they should be made a part of the permanent records of the committee. The first is the decision of the tribunal of the International Labor Organization, and the second is the briefs, the pleadings, in that case.

We had some difficulty in getting these, and the State Department procured them for us, for which we are grateful. I believe they should be ordered for the permanent record of the committee.

Senator JOHNSTON. They will be made a part of the permanent record of the committee.

(The documents referred to were made a part of the permanent record of the subcommittee, marked "Exhibit No. 380," and will be found in the files of the subcommittee.)

Mr. SOURWINE. Now, Mr. Chairman, going back to the matter of the letters which we have received from these individuals, I want to call the attention of the committee to the fact that they have several things in common.

First, they decline—they also all state—let me read this paragraph from the letter of Mrs. Helene Van Gelder:

As you state in your letter that the purpose of the hearings is to consider proposed legislation applicable to persons employed by UNESCO and other international organizations, and as I, myself, have not been so employed since July of 1955, I have communicated the contents of your letter to UNESCO.

Nearly every one of the letters, as the committee will see upon examination, carries a paragraph substantially identical to that, the wording is even similar. And I suggest to the committee that this is an indication of some communication between these people, of a coordination of their own activities, and it may help to shed light on the question which I asked previously as to whether the organization which Mr. Gerety had expressed fears about being inimical to the interests of the United States is still active in the United Nations.

We come now to the case, Mr. Chairman, of Mr. Gordon McIntire. Mr. Gordon McIntire is the individual who gave what might be termed a qualified acceptance. Mr. McIntire's letter states that he is willing to attend the hearing before the committee, provided he is furnished transportation and per diem in lieu of subsistence and provided the subcommittee will undertake practical loyalty clearance responsibility in his case.

The chairman addressed a letter to Mr. McIntire telling him that in view of his letter, arrangements had been made to provide him with a round-trip ticket by air, that the United States Embassy in Rome would get in touch with him and furnish him that ticket. And I am informed by the State Department that the Embassy did reach Mr. McIntire and did tell him the ticket was there for him if he would pick it up. He did not do so.

The chairman's letter also advised Mr. McIntire that per diem in lieu of subsistence would be furnished by the committee on voucher after the number of days involved had been determined. Then the chairman's letter states:

Any and all charges of a security nature which have been made against you, so far as the committee knows or can learn them, will be placed in the open record at this hearing and you will be permitted to say what you wish concerning them. The committee cannot undertake what you refer to as "clearance responsibility,"

because, as a legislative body, the committee has no "clearance" function. As an arm of the Senate, the committee cannot make any recommendations to the FAO; however, it must be assumed that FAO will take cognizance of the committee's hearing.

That is a case which differed from the others. I ask that this correspondence between the subcommittee and Mr. McIntire be admitted at this point.

(The letters were marked "Exhibits Nos. 381 and 381-A and B," and read as follows:)

EXHIBIT No. 381

DECEMBER 6, 1956.

Mr. GORDON MCINTIRE,
Via San Saba 22, Rome, Italy.

DEAR MR. MCINTIRE: In view of your letter of November 24, arrangements have been made to provide you with a round-trip ticket by air to attend the hearings of the Internal Security Subcommittee on December 17, 1956. The United States Embassy in Rome will get in touch with you and give you this ticket. Per diem in lieu of subsistence will be furnished by the committee on voucher after the number of days involved has been determined.

Any and all charges of a security nature which have been made against you so far as the committee knows or can learn them will be placed in the open record at this hearing and you will be permitted to say what you wish concerning them. The committee cannot undertake what you refer to as "clearance responsibility," because as a legislative body the committee has no "clearance" function. As an arm of the Senate, the committee cannot make any recommendations to the FAO; however, it must be assumed the FAO will take cognizance of the committee's hearing.

I am glad you are going to be present at the hearing on December 17.

Sincerely,

JAMES O. EASTLAND.

EXHIBIT No. 381-A

Via San Saba 22, Rome, November 24, 1956.

Hon. JAMES O. EASTLAND,
Chairman, Senate Internal Security Subcommittee,
Senate Office Building, Washington, D. C.

DEAR SENATOR EASTLAND: I am willing to attend a hearing before the Senate Internal Security Subcommittee in Washington, D. C., on or about December 13, 1956, provided I am furnished transportation to Washington and return, and per diem in lieu of subsistence, and provided the subcommittee will undertake practical loyalty clearance responsibility in my case.

Permit me to explain my situation briefly: I have always, as a matter of principle, cooperated fully with the various loyalty and security programs. In every instance where the charges have been made known to me, I have defended my record honorably and successfully.

When I was employed by the Bureau of the Budget in the Executive Office of the President and question arose as to my loyalty, I was promptly informed of the charges against me, afforded opportunity of hearing before a board designated by the Bureau, and obtained full clearance by authority of the Director.

In another instance, the Department of State took official action to cancel my passport without charges or hearing and I remained without recourse for many months. At length, after very costly litigation, the Department disclosed the charges, I was permitted to reply, and as a result an unrestricted passport was restored to me.

In the present case, when the Food and Agriculture Organization of the United Nations (FAO) received a report concerning me, it took immediate action to terminate my employment and announced to the press that I had been "dismissed" because I was "not suitable" for employment and, specifically, that I had "not been cleared for employment with FAO" under the international loyalty program. Up to the present moment, the FAO has withheld the charges from me and from the International Organizations Employees Loyalty Board, causing damage to my reputation and a continued bar to employment in my field.

The opportunity for hearing which you offer can be of vital importance to me

if the subcommittee is (1) able to obtain the evidence, specifically the secret document from the Department of State to the FAO which led to my dismissal, and (2) willing, after such hearing, to arrive at conclusions and transmit a recommendation which the FAO would receive and consider. Anything less would only leave me in the present state of suspicion and disgrace, unable to pursue my career, or obtain visas for travel.

Please notify me as to definite dates and travel arrangements and as to whether the subcommittee would be prepared to make an advisory determination concerning my loyalty.

Sincerely,

GORDON MCINTIRE.

Copy to: Senator-elect John Carroll, Congressman Byron N. Rogers, Dr. B. R. Sen, Director General, FAO.

EXHIBIT No. 381-B

ROMA, December 18, 1956.

Senator EASTLAND, Washington, D. C.:

I must accept your statement that committee as legislative body cannot undertake clearance responsibility but urge its good offices help bring about full disclosure of secret letter concerning me under Executive Order 10422 from State Department to FAO and appropriate opportunity to reply in accordance with assurances given by United States Representative Lodge and U. N. Secretary General at plenary meetings 413 and 416 of General Assembly of "protecting the individual employee from unjust accusations and arbitrary action." I have official clearance from United States Bureau of Budget and State Department on all other existing charges related to subversive activity and United States security.

McINTIRE.

Mr. SOURWINE. Now, the chronological summary in Mr. McIntire's case is here. On August 24, 1954—Mr. Chairman, pardon me. Perhaps I should ask the witness first: Did the Board consider the case of Mr. Gordon McIntire?

Mr. WALDMAN. No, sir. And the reason it did not was, from the information we had, he was not an employee.

Mr. SOURWINE. I think we have evidence which will substantiate that, Mr. Chairman.

Then, he was not employed at the time the case came to you?

Mr. WALDMAN. That is so.

But he has been searching for a forum to tell his case, and we felt the same as you did: we could not give him a security clearance, and the case was not legally before us.

Mr. SOURWINE. Mr. Gordon McIntire's case, which was being heard before the Administrative Tribunal of the United Nations in August of 1954, involved an allegation by him that the food agency of the Food and Agriculture Organization of the United Nations had given false reasons for not renewing his employment.

He alleged that this agency gave lack of competence as the reason when the real reason was illegal intervention by the United States Government in the internal affairs of an international agency.

On August 27, 1954, he asked \$30,000 compensation for loss of his job. He had been permitted to use the title "Chief of the Policy and Procedure Section"; he had received that title just 8 days before he was told by the organization that he was out.

In September of 1954 a three-man international tribunal ordered the United Nations Food and Agriculture Organization to reinstate McIntire, or to pay \$11,000 damages for wrongful dismissal.

The tribunal's finding declared the existence of a secret document concerning McIntire, the content of which was unknown to him and

against which he was thus unable to defend himself, clearly violates a UNESCO application of the FAO statute, and thus causes harm to the interest not only of the entire staff but to those of justice itself.

Do you have any information, Mr. Waldman, as to whether Mr. McIntire was dismissed on the basis of a secret document, as he indicates?

Mr. WALDMAN. No, sir; we do not.

We were simply told that he was no longer an employee, and not an applicant, and since the program envisaged either of those statutes, and he not coming within it, we could not hear it.

Mr. SOURWINE. Mr. Chairman, the committee has obtained a photostat of the notice of dismissal—I beg your pardon; this is a photostat of the official carbon copy of the notice of dismissal of Mr. McIntire.

It will be noted it was dated April 8, 1953. The Food and Agriculture Organization of the United Nations, Rome, Italy, "Confidential," states:

Dear Mr. McIntire: It is with regret that I have to inform you that I have decided after full consideration that it will not be possible for me to confirm your present appointment at the end of your probationary period. As you know, both Mr. Posner and I have had doubts about your suitability for the post which you occupy and, although there has been some improvement in your work in the last 2 or 3 months, I am now convinced that your abilities do not lie in the field of procedures work.

The second paragraph cites the manual and contains the appropriate wording concerning the employment.

The third paragraph contains the conventional regrets that this was necessary.

I ask that this go into the record at this time.

Senator JOHNSTON. It may go into the record.

(The document referred to was marked "Exhibit No. 382," and reads as follows:)

EXHIBIT No. 382

NOTICE OF DISMISSAL

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS,
Rome, Italy, April 8, 1953.

Confidential.

Mr. G. McINTIRE,
Room 313-A, FAO.

DEAR MR. McINTIRE: It is with regret that I have to inform you that I have decided after full consideration that it will not be possible for me to confirm your present appointment at the end of your probationary period. As you know, both Mr. Posner and I have had doubts about your suitability for the post which you occupy and, although there has been some improvement in your work in the last 2 or 3 months, I am now convinced that your abilities do not lie in the field of procedures work.

2. Under section 310.52 of the Administrative Manual, a staff member may be separated at any time during or at the end of his probationary period if, after a fair trial, he does not perform satisfactorily the duties of the post to which he is assigned. I consider that you have been given a fair trial but have not performed your duties satisfactorily. You may, therefore, take this letter as your notice of separation, to be effective May 31, 1953, in accordance with the terms of the Administrative Manual. You are entitled, of course, to payment for any accrued annual leave, to the appropriate payment under the United Nations Joint Staff Pension Fund Regulations and to the payment of travel expenses to your home for yourself and your dependents. Under the regulations, you are not entitled to the payment of the cost of the removal of your household goods to your home, but I am recommending to the Director General that, in your

case, the regulation in this respect should be waived and your costs reimbursed. I have no doubt that the Director General will approve my recommendation.

3. May I say how sorry I am that it has become necessary to take this action and how much I hope that you will succeed in finding new activities in keeping with your obvious talents.

Yours sincerely,

/s/ FRANK WEISL,
Director of Administration.

(The decision of the Administrative Tribunal (ILO) in the case of Gordon McIntire was marked "Exhibit No. 383," and reads as follows:)

EXHIBIT NO. 383

[Unofficial translation]

INTERNATIONAL LABOUR ORGANISATION

ADMINISTRATIVE TRIBUNAL

Judgment No. 13

ORDINARY SESSION OF AUGUST-SEPTEMBER 1954

Sitting of 3 September 1954

IN THE MATTER OF MR. GORDON MCINTIRE AGAINST FOOD AND AGRICULTURE
ORGANISATION OF THE UNITED NATIONS

The Administrative Tribunal of the International Labour Organization,

Having had referred to it a complaint made against the Food and Agriculture Organisation of the United Nations on 8 April 1954 by Mr. Gordon McIntire, formerly an official of that Organisation, seeking the rescission of a decision of the Director General of that Organisation not to confirm his appointment at the end of the probationary period;

Considering the additional memorandum submitted by the complainant on 1 August 1954;

Considering the memorandum of reply of the defendant Organisation dated 19 May 1954;

Having had referred to it a statement submitted in his own name on 24 August by Mr. X Leutenegger, Chairman of the Staff Association;

Having heard, on oath, in public sitting, on 26 August 1954, Mr. Irving L. Posner, witness cited by the complainant, whose deposition, certified true, is in the dossier;

Considering that the complaint is receivable in form;

Considering that the facts of the case are as follows:

(1) The complainant, a citizen of the United States of America, entered the service of the defendant Organisation on 5 June 1952; his post came under the Budget and Administrative Planning Branch, directed by Mr. Posner; his contract was of five years' duration; towards the end of the year 1952, most of the temporary contracts having been changed to permanent contracts, the complainant was informed that his appointment had been changed to a permanent appointment with effect from 1 July 1952, the probationary period having commenced on 5 June 1952, as provided for in the initial contract;

(2) The probationary period was thus, in any event, to expire on 4 June 1953 (subject to a possible six months' extension);

(3) The services of the complainant gave rise in the beginning to serious doubts on the part of his chiefs as to his fitness for the duties entrusted to him, although his goodwill, good intentions and devotion were not called into question; his immediate chief, Mr. Posner, made verbal remarks to him concerning these doubts on several occasions, endeavoured to help and guide him during this trial period and communicated to him in writing, on 14 January 1953, when a report was made on his first six months of service, the substance of these remarks and this advice;

(4) The complainant endeavoured to improve his work and Mr. Posner considered, towards the end of March, that his efforts had been fruitful and deserved encouragement; on 30 March 1953, at the request of the complainant that he be given the title of Chief of the Policy and Procedures Section which had been set

up within the Budget and Administrative Planning Branch—a request made by the complainant because he considered this title would give him prestige—Mr. Posner felt able to reply in the affirmative and so informed Mr. Weisl, his own responsible chief, Director of Administration, who raised no objection; this title was, moreover, used inside the Organisation as from 30 March 1953 and was known to the heads of the administrative units;

(5) On 8 April, that is to say a few days later, Mr. Weisl informed the complainant, in a letter couched in the following terms, that his appointment would not be confirmed:

8 APRIL 1953.

Confidential.

DEAR MR. MCINTIRE: It is with regret that I have to inform you that I have decided, after full consideration, that it will not be possible for me to confirm your present appointment at the end of your probationary period. As you know, both Mr. Posner and I have had doubts about your suitability for the post which you occupy, and although there has been some improvement in your work in the last two or three months, I am now convinced that your abilities do not lie in the field of procedures work.

2. Under Section 310.52 of the Administrative Manual, a staff member may be separated at any time during or at the end of his probationary period if, after a fair trial, he does not perform satisfactorily the duties of the post to which he is assigned. I consider that you have been given a fair trial, but have not performed your duties satisfactorily. You may, therefore, take this letter as your notice of separation, to be effective 31 May 1953, in accordance with the terms of the Administrative Manual. You are entitled, of course, to payment for any accrued annual leave, to the appropriate payment under the United Nations Joint Staff Pension Fund regulations, and to the payment of travel expenses to your home for yourself and your dependents. Under the regulations, you are not entitled to the payment of the cost of the removal of your household goods to your home, but I am recommending to the Director General that, in your case, the regulation in this respect should be waived and your costs reimbursed. I have no doubt that the Director General will approve my recommendation.

3. May I say how sorry I am that it has become necessary to take this action and how much I hope that you will succeed in finding new activities in keeping with your obvious talents.

Yours sincerely,

(Signed) FRANK WEISL,
Director of Administration.

(6) The complainant appealed, in accordance with the normal procedure, to the Appeals Committee established under the terms of the Staff Regulations; his grievances were as follows: (a) established procedures were not followed in giving him his termination notice; (b) the charge of unsatisfactory services was based on misunderstanding, prejudice, or some other extraneous factor;

(7) When he was heard by the Appeals Committee, the complainant dropped the first of these grievances (a) and modified the second (b), suppressing the words "misunderstanding" and "prejudice" and maintaining only that the decision of the Director General was based on some extraneous factor;

(8) In its report, the Appeals Committee stated: (a) that it had failed to find sufficient evidence that there was a justifiable grievance under the terms of the Administrative Manual, section 320.12; (b) that, in any event, article IX of the Staff Regulations (paragraph 301.0912) left no doubt that the Director General was at full liberty to take any factors into consideration when deciding to terminate the appointment of a staff member serving a probationary period and that his sole judgment should prevail as to whether such action was in the interests of the Organisation;

(9) In an undated letter addressed to the complainant immediately after the deliberations of the Appeals Committee, that is to say, towards the end of May 1953, the Director General accepted the conclusions of the Appeals Committee and confirmed that the appointment was terminated with effect from 4 June 1953.

IN LAW:

Considering that the Director of Administration, in his letter of 8 April 1953, had based the decision to terminate the appointment of Mr. McIntire on section 310.52 of the Administrative Manual, which provides *inter alia* that a staff member on probation may be separated at any time during or at the end of his probationary period for unsatisfactory service, provided he receives a statement giving the specific reasons for this action;

Considering that the Appeals Committee, to which the complainant appealed, believed there might be another possible justification for the measure taken against the complainant in the event of the interests of the Organisation being invoked in accordance with article IX, paragraph 301.0912 of the Staff Regulations:

Considering that the recourse to article IX suggested by the said Committee is devoid of all relevance; that it is only in the event of the Director General having expressly invoked the said article as a basis for the decision to terminate the appointment of an official on probation that this senior official would have acted in the full exercise of his prerogative, without the Tribunal having the power to judge the reasons involving the interests of the defendant Organisation;

That, while he accepted the conclusions of the Appeals Committee, he limited himself to confirming the decision of 8 April;

That, in addition, at that stage of the procedure, a change of grounds would have vitiating the procedure; that the Administrative Tribunal of the United Nations, in its judgment No. 4, stated "That, while it is not for the Tribunal to substitute its judgment for that of the Secretary General with respect to the adequacy of the grounds for termination stated, it is for the Tribunal to ascertain that an affirmative finding of cause which constitutes reasonable grounds for termination has been made, and that due process has been accorded in arriving at such an affirmative finding.";

Considering that the only explanation which has ever been given expressly to the complainant was based on the unsatisfactory nature of his services;

Considering that the discretionary power of the Director General in this matter cannot be exercised for reasons not clearly specified; that he cannot invoke one reason for exercising his powers when in reality his action is based on another reason, since this would constitute misuse of power likely to lead to rescission of the decision;

WHEREON, pronouncing judgment on the substance:

Considering that it cannot be conceived, unless a new circumstance arose in the meantime, that Mr. Weisl agreed, on 30 March 1953, that the complainant be authorised to use the title of chief of section whereas he himself, on 8 April of the same year, was to decide immediately to dismiss the complainant, the matter appearing so urgent to him that he could not wait for the normal end of the probationary period (which was to expire less than two months later) or for the verification of the progress noted since Mr. Posner's report of 14 January 1953, or even hear the explanations of the complainant beforehand;

Considering that the existence of this new circumstance is shown, that it is established that between 30 March and 8 April Mr. Dodd, then Director General, received a letter from Mr. Hickerson, Assistant Secretary of State of the United States of America, concerning the person of the complainant; that the defendant Organisation has recognised that this was so since its representative declared in public sitting that the facts related in that letter were the official confirmation of information given verbally to the Director General, Mr. Dodd, during his visit to Washington one month previously, without any steps having been taken against the complainant at that time, but also without the complainant having been informed:

Considering that the complainant asks that this letter be produced during the discussion, being of the opinion that the Tribunal would thus be in a better position to assess the influence of this document on the change of attitude of Mr. Weisl and on the decision communicated to the complainant on 8 April;

Considering that, in the following terms, the defendant Organisation has refused to accede to this request:

27 AUGUST 1954.

SIR: I have taken note of the letter dated 26 August 1954 which you were kind enough to communicate to me and in which Maitre J. Mercier, Counsel for Mr. McIntire, asks that the Tribunal order the production of the letter received by the Director General of the F. A. O. from the Government of the United States and which has been mentioned in the course of the discussions.

I have the honour to confirm the statement which I made during the sitting held this afternoon *in camera*; namely, that the Director General would have been happy to have been able to communicate this letter to the Tribunal, but that he does not consider that he should do so as this "confidential" letter comes from the Government of a sovereign State and must, for that reason, be treated in the same way as a diplomatic communication. Its production, without the authorisa-

tion of the Government concerned, would constitute a violation of diplomatic usage in such matters.

I have the honour to be, etc.,

(Signed) Sir JOHN SERRAO,
Attorney at the Supreme Court of Appeal in Rome.

(Signed) G. SAINT-POL,
Chief of the Legal Affairs Section of the F. A. O.

Considering that the Tribunal, while it has not the power to express an opinion as to the merits of the reason given by the defendant Organisation, deems it inadmissible that the considerations alleged by that Organisation can in any way prejudice the legitimate interests of the complainant; that the existence of a secret document concerning the complainant, the content of which is unknown to him and against which he is consequently powerless to defend himself, obviously vitiates the just application of the Regulations to the complainant and affects not only the interests of the staff as a whole but also the interests of justice itself (vide, judgment No. 15 of the Administrative Tribunal of the United Nations: "The Applicant cannot be penalised because certain information is considered by the Respondent as confidential and the Applicant has no opportunity either of knowing what the reason is or of challenging it.")

That, in consequence, it is the duty of the Tribunal to consider as established the fact that the decision of 8 April is not really based on the grounds of unsatisfactory service but on personal considerations extraneous to such grounds; that it therefore constitutes an act of misuse of power and must be rescinded;

Considering that, in the event of the defendant refusing consequently to authorise the complainant to resume his duties, it is necessary to make a financial award against the defendant with a view to compensating the complainant for the damage which the decision has caused him in depriving him of the possibility of being accepted for permanent employment at the end of the trial period; that, in addition, the complainant has been subjected for a long time to conditions of material and moral insecurity causing him serious suffering, a state of affairs which it should be recognised the present Directorate of the F. A. O. has tried to make easier by all means within its power;

ON THE GROUNDS AS AFORESAID:

Rejecting any wider or contrary conclusions,

The Tribunal orders the rescission of the impugned decision of 8 April 1953 and the undated decision of the Director General regarding the whole procedure followed in consequence;

And,

Failing the reinstatement of the complainant in its service by the defendant Organisation,

Orders that Organisation to pay the complainant, by way of compensation in reparation, an amount equivalent to fifteen months' salary, together with interest at 4 per cent, as from 5 June 1953, an amount of three thousand dollars to be added to the whole by reason of the material and moral damage incurred by the complainant between 8 April 1953 and the date of the present judgment, independently of repatriation expenses,

Orders the defendant Organisation to pay the complainant the sum of 300 dollars by way of participation in the cost of his defence,

With regard to the statement of Mr. Leutenegger, declares that statement receivable insofar as it is made in his own name and orders the defendant to bear any expenses which arise from that statement and for which justification is provided.

In witness of which judgment, pronounced in public sitting on 3 September 1954, by His Excellency M. Albert Devèze, President, Jonkheer van Rijckevorsel, Acting Vice President, and M. Iasson Stavropoulos, Deputy Judge, called upon to sit owing to the inability of a titular Judge to attend, the aforementioned have hereunto subscribed their signatures, as well as myself, Wolf, Registrar of the Tribunal.

ALBERT DEVÈZE.
A. VAN RIJCKEVORSEL.
IASSON STAVROPOULOS.
FRANCIS WOLF.

Mr. SOURWINE. Mr. Waldman, I would like to ask about one or two individuals whose names are of interest to the committee.

Has the Board made a report with regard to Gardner Murphy?

Mr. WALDMAN. Frankly, it does not strike a bell with me.

Mr. SOURWINE. You do not recall the name?

Mr. WALDMAN. Never, sir.

Mr. SOURWINE. I might say, Mr. Chairman, Mr. Gardner Murphy was at one time an employee of UNESCO. I do not know whether he is presently. The records indicate that Mr. Murphy was affiliated with 10 organizations which have been cited as subversive by the Attorney General which are: American Council for Protection of Foreign Born, Citizens Committee for Harry Bridges, Council for Pan American Democracy, Greater New York Emergency Conference on Inalienable Rights, National Federation for Constitutional Liberties, and Scientific and Cultural Conference for World Peace.

Did the Board make a report with respect to Jerome A. Oberwager?

Mr. WALDMAN. Somehow I have a vague idea that that was the case, but we will be glad to let you know. I can't recall it.

Mr. SOURWINE. I have 3 names here, I have mentioned 1, and that is the second, and anything you can give the committee we would like to have.

Senator JOHNSTON. If you have any information that you can get from your files, we would be pleased to have it.

Mr. WALDMAN. Very well, sir.

Mr. SOURWINE. Mr. Chairman, Mr. Oberwager testified before the subcommittee in February 1953, he invoked the fifth amendment when asked about membership and his activities in the Communist Party.

We know that he was employed as a teacher of film scripts by UNESCO from 1951 to 1953. He left that particular employment, and I don't know whether he has resumed employment with that or any other international agency, but I was interested in knowing whether the Board had any part in this case.

Did the Board make a report with respect to Haakon Chevalier?

Mr. WALDMAN. I don't think we ever had such case, I just know from reading the literature on the subject.

Mr. SOURWINE. Haakon Chevalier, of course, is a very famous case, he was employed by UNESCO as a translator, and I do not know whether he is still so employed. He is the man that previously has been identified as the contact man between George Charles Eltenton and Dr. J. Robert Oppenheimer, then director of the atom bomb project in 1942.

Eltenton was approached by Peter Ivanov, then vice consul, Soviet consulate, San Francisco, who asked him to get technical information for Soviets. Eltenton contacted Chevalier, who in turn approached Oppenheimer and solicited the betrayal of classified atomic energy secrets to the Soviet Union.

Mr. WALDMAN. If I saw that name I think I would know it.

Mr. SOURWINE. As far as you know it has never been submitted?

Mr. WALDMAN. It never has; no.

Senator JOHNSTON. You just get the cases that are submitted to you?

Mr. WALDMAN. In other words, no American can be employed by an international organization without us knowing about it and making an investigation and making a decision.

(The following letter was later received by the subcommittee:)

UNITED STATES CIVIL SERVICE COMMISSION,
INTERNATIONAL ORGANIZATIONS EMPLOYEES LOYALTY BOARD,
Washington 25, D. C., December 19, 1956.

Mr. J. G. SOURWINE,

Counsel to the Subcommittee To Investigate the Administration of the Internal Security Act and Other Internal Security Laws, Committee on the Judiciary, United States Senate, Washington 25, D. C.

DEAR MR. SOURWINE: At the hearing on December 17, 1956, it was requested that information be furnished as to whether or not the cases of Gardner Murphy, Jerome A. Oberwager, and Haakon Chevalier had ever been processed by the International Organizations Employees Loyalty Board.

Please be advised that the records of this board reveal that the aforementioned cases have never been adjudicated by this board.

I shall be glad to assist if further information is desired.

Sincerely,

FREDERICK D. IRWIN, *Executive Secretary.*

(Mr. Toussaint, of the State Department, later provided the following information:)

Gardner Murphy is not at present and, it would appear, has not been employed by any of the international organizations since about 1950, when he was released from UNESCO.

Jerome A. Oberwager was employed by the U. N. from October 7, 1946, until September 7, 1951, in the Public Information Department. There is no record of his being employed by an international organization since 1951.

Haakon Chevalier was employed by the U. N. as an interpreter from September 18, 1946, until October 14, 1946. There is no record that he was subsequently employed by any international organization.

Mr. SOURWINE. Mr. Chairman, there is one point which perhaps may not be clear in the record. These individuals whose names and records we have gone into were all the holders of substantial administrative positions; is that correct?

Mr. WALDMAN. They were; yes.

Mr. SOURWINE. Their salaries ranged from, I believe, \$5,400 a year up?

Mr. WALDMAN. That is right.

Mr. SOURWINE. We are not talking here about the cases of any little stenographer.

Mr. Chairman, I have one more question of this witness. The witness has been extremely helpful, but, before we leave, however, I don't know whether you want to dismiss this witness first before we put this in the record.

Senator JOHNSTON. We certainly want to thank you for coming before us and giving us this information and answering the questions you were asked.

Mr. WALDMAN. Thank you.

Mr. SOURWINE. This document, Mr. Chairman, refers not to this subject matter at all, but to the recent hearing in Hawaii. It is a letter to the committee from the firm of Bouslog & Symonds. I would like to ask that it be made a part of the record.

Senator JOHNSTON. That shall be made a part of the record, and be included in that case that we had.

(The letter referred to was placed in the record of the subcommittee in Honolulu.)

Mr. SOURWINE. I have nothing further to submit this morning, Mr. Chairman.

Senator JOHNSTON. Are there any further questions?

Senator JENNER. Nothing further, Mr. Chairman.

Senator JOHNSTON. If not, the committee will adjourn, subject to the call of the Chair.

(Whereupon, at 12:35 p. m., the subcommittee adjourned, subject to the call of the Chair.)

APPENDICES

APPENDIX I

(The following exchange of correspondence was ordered printed as an appendix to the hearing on December 17, 1956:)

JANUARY 18, 1957.

Capt. EUGENE R. GUILD, United States Army (Retired),
Headquarters, Fighting Homefolks of Fighting Men,
Glenwood Springs, Colo.

DEAR CAPTAIN GUILD: Thank you for your letter of January 6, 1957, with enclosures, which came to my desk earlier this week. You make some interesting points, and I plan to take up with my colleagues on the Internal Security Subcommittee the question of putting your letter in the records of our hearing.

All good wishes for the New Year upon which we have embarked.

Sincerely yours,

JAMES O. EASTLAND,
Chairman, Internal Security Subcommittee.

HEADQUARTERS, FIGHTING HOMEFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., January 6, 1957.

Senator JAMES O. EASTLAND,
Chairman, Internal Security Subcommittee, Committee of the Judiciary,
Senate Office Building, Washington, D. C.

DEAR SENATOR EASTLAND: We noted in the press that your committee was, in the process of hearings on UNESCO, calling as a witness Francis O. Wilcox, Assistant Secretary of State for International Organization Affairs.

We have had some experience with Mr. Wilcox in the attached matter of a claim made by a group of mothers of dead or enslaved soldiers still held by the Reds from the Korean war.

On December 2, 1954, President Eisenhower, speaking on the subject of our Red-held soldiers, said: "How the United Nations can possibly disabuse itself of a feeling of responsibility in this matter, and retain its self-respect, I wouldn't know * * *."

In Mr. Wilcox's letter to us dated January 11, 1956, and marked in red as Document No. 11 in the attached papers, he completely disavowed the President's words and defended the United Nations in its abandonment of the American POW's whose number General Van Fleet, generally supported by General Mark Clark, puts at 400.

Mr. Wilcox's role seems to be one of excusing and defending the United Nations acts to the detriment of the United States and, in this case, to the detriment of the bereaved and desperately anxious mothers of American heroes.

His outrageous letter, Document No. 11, is furnished your subcommittee with the hope that it may throw light on the situation concerning disloyalty of Americans employed by international organizations.

Yours very sincerely,

EUGENE R. GUILD,
Captain, United States Army, Retired.

ENCLOSURE NO. 1

[Los Angeles Times, February 9, 1956, p. 4]

BETRAYAL OF GI'S CHARGED

In a letter signed by Assistant Secretary F. O. Wilcox, the State Department has refused to transmit to the United Nations the plea of 56 parents for redress

of wrongs done their sons who were missing or killed while fighting under the United Nations flag in Korea and who were betrayed and abandoned to the enemy.

The State Department gives two remarkable reasons:

First, ignoring the fact that American soldiers were deprived of support and protection, being captured or dying with their hands tied, it says that the Communists were solely to blame for what happened.

The second reason will surprise all Americans who were told that the war was a U. N. war, fought with U. N. forces under the U. N. flag, and that the United States, in directing it, was acting as an agency of the United Nations. It is that the United Nations (although the letter admits it "sided with us," "gave its backing," "expressed its support") was merely a sympathetic bystander, not responsible for anything.

The letter mentioned "the United Nations command in Korea," but it evidently was a slip of the pen because it says in effect that no such thing existed and that the U. N. flag over the headquarters was only "to symbolize the fact that the United States exercised unified command."

The 56 parents who received the letter regard this as doubletalk and an amazing example of buck passing. The buck is being passed from the United Nations to the United States and thence to the Communists. Nobody on our side is to blame, but our sons lie dead, betrayed by someone. Others remain in Red prisons for years of torture, abandoned by someone. The State Department seems more intent on defending the United Nations than the United States.

The parents, and I am one, are perfectly aware that this buck-passing letter cannot absolve the United Nations for the crimes against the American soldier, committed in its name and under its flag.

Nevertheless, the State Department, by officially exculpating the United Nations for complicity in the mistreatment of American soldiers, now clears the way for our suit against the Government for collaborating in the betrayal and abandonment of our soldier sons. The State Department cannot now come to court and plead that it was all the United Nations' fault.

EUGENE R. GUILD,

*United States Army, Retired, Fighting Homefolks of
Fighting Men, Glenwood Springs, Colo.*

ENCLOSURE No. 2

[News Release No. 2761]

HEADQUARTERS, FIGHTING HOMEFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., June 23, 1955.

Mr. DAG HAMMARSKJOLD,

Secretary General, United Nations,

Anniversary Celebration Headquarters, San Francisco, Calif.

MY DEAR MR. HAMMARSKJOLD: I furnish you herewith a claim by 70 kin of American soldiers who fought in Korea under the U. N. flag. The value of the life or liberty of an American patriot hero lost by reason of bad faith and disloyalty to him by the U. N. is placed at a million dollars, and would be cheap at 10 times that price.

Individual signed claims, synopses of testimony expected from witnesses, and any other information or documents you may desire will be forwarded upon your application. Will you please designate the tribunal which will hear these claims, the procedure you will require, and the approximate date of the hearing which we request shall not be before August 1.

We are sure that the U. N., which was glad to generously indemnify those un-Americans who lost their jobs because of their sympathy with the Red enemy of America, will be equally glad to indemnify the kin of those Americans who lost their lives or their liberty fighting for a U. N. which did not and still does not, back them up.

These claims are submitted after attempts by the kin to see you failed. You will recall that on April 19, 1954, you would not see 70 weary mothers waiting hours to see you; that as pictured in the Nation's press your security police treated a group of them so brusquely as to reduce them to tears; and that you had the New York police remove the mothers from First Avenue because a portion of that New York street is no longer American soil and can be walked upon only by your permission.

On April 20 the mothers again failed to arrange a meeting with you through Henry Cabot Lodge, who also would not see them—cleverly setting the hour at which he was willing to meet them at a time after their scheduled departure for Washington in an attempt, also in vain, to see Mr. Eisenhower. Mr. Lodge then alleged that the mothers had expressed themselves as pleased and well satisfied with his treatment of them.

The last recourse then is to prosecute these claims in the U. N. court of justice. A good many additional coclaimants are expected to appear, and we reserve the right to add more claimants up to the hour of the hearing. Please note that these claims have no mercenary element; counsel will serve without fee and the claimants all pledge their indemnity for use in ridding the United States of the subversive influence of the U. N. before more American boys die by more U. N. treachery.

EUGENE R. GUILD,
Captain, United States Army, Retired,
(For the Claimants).

ENCLOSURE No. 3

[News Release No. 275]

HEADQUARTERS, FIGHTING HOMEFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., June 23, 1955.

CLAIM AGAINST THE UNITED NATIONS FOR LOSS OF LIFE OR LIBERTY

The below signatory kin claim an indemnity of \$1 million each for the death or loss of liberty of their soldier kin in the Korean war. Having started the war and accepted the loyalty of these American soldiers, the U. N. committed the following breaches of faith and loyalty constituting betrayal and abandonment of the American soldiers fighting under its flag.

Charge I: Most of the U. N. did not back these men with their soldiers.

Charge II: The U. N. kept a Red member on its military committee, where he could aid the Red enemy.

Charge III: By this and other means the U. N. assured the Chinese Reds that if they attacked, the U. N. would not do its utmost to defeat them.

Charge IV: The U. N. then tied our soldiers' hands, denying them strategic and tactical support of routine blockade, bombing, and hot pursuit, removing their leader on the verge of victory, and ordering cease-fires each time victory was imminent.

Charge V: The U. N. failed to expell the member who had started the war and who supplied the enemy with munitions.

Charge VI: The U. N. did not prevent its members from trading with and supplying the enemy with the means to kill our men.

Charge VII: The U. N. made no effort to enforce the truce violated by the holding by the enemy of several hundred American soldiers, and for over a year and a half has abandoned to the enemy several hundred Americans who fought under the U. N. flag. The recent deal to free the 15 airmen is but an incident in the blackmail deal to sell the 100,000 free people of Quemoy and Matsu into Red slavery.

Witnesses: Gens. Douglas MacArthur, James A. Van Fleet, Mark Clark, George E. Stratemeyer, Edward M. Almond, Adm. C. Turner Joy, and other Americans.

Coplaintiffs (all having pledged any indemnity to a fund for ridding America of the subversive influence of the U. N. before more American boys die by its treachery): Alice E. Anderson, Dealia L. Bailey, Hazel Benham, Katheryn Coleman, Mrs. James F. Crutchfield, Esther Gramberg, Lola M. Schauer, Jo Stiter, Myrtle Yarbrough, California; Eugene R. and Isabel C. Guild, Colorado; Bessie McDonough, Mrs. George Perdrizet, Connecticut; Mr. and Mrs. Halsted P. Layton, Delaware; Forest and Mae McElroy, Mrs. R. H. Shaddick, Mrs. J. L. Wright, Florida; Mrs. E. N. Morris, R. J. Wise, Georgia; Mr. and Mrs. Stanley Arendt, Lyttia Elam, Roy Huffstutler, Mrs. Nicholas Radanovich, Edwin Schultz, Mr. and Mrs. Michael Yercich, Illinois; Mr. and Mrs. Roy E. Yonts, Kentucky; Mrs. Thorn H. Dakin, Mrs. Ralph M. Hummel, Massachusetts; Mr. and Mrs. Stanley Depki, Michigan; Mrs. Frank Brown, Lillian W. Jensen, Mr. and Mrs. A. Lundberg, Archie and Ruth Nelson, Minnesota; Marjorie Llewellyn, Montana; Leota Shadden, Nebraska; J. B. Agnelli, Marie DiGiorgio, Sarah Flaherty, William J.

Gluntz, Cesira Mattucci, Mrs. J. E. Schwab, Rita Van Wees, Mr. and Mrs. John Zingarella, New York; Mrs. E. S. Guthrie, Sr., North Carolina; Mr. and Mrs. Dennis M. Kelly, Oklahoma; M. J. Durochin, Oregon; Cora L. Roberts, H. W. Schrecengost, Pennsylvania; J. A. Gleaves, Ethel C. Logan, Helen H. Logan, Tennessee; Ellen B. Hernan, Mrs. Ignacio Davis, A. G. Lostetter, Mrs. Charles E. McDonough, Coleta L. Sanchez, Nienan A. Vela, Texas; J. A. Desantels, Sophia D. Rehm, Vermont; Nancy Williams, Mrs. Arch T. Young, Virginia; Margaret M. Barrick, West Virginia; Mrs. G. E. Dagnon, Mrs. G. A. Kampa, K. A. Mikulik, Wisconsin; Mrs. S. A. de Diaz, Mrs. C. L. de Valentin, P. C. Lanzo, Jacinta Martinez, G. P. Soto, A. M. Vazquez, Puerto Rico.

EUGENE R. GUILD,
Captain, United States Army, Retired
(For the Plaintiffs).

ENCLOSURE No. 4

[News Release No. 285W]

**CLAIM FOR INDEMNITY FROM THE UNITED NATIONS FOR LOSS OF LIFE OR LIBERTY
OF AMERICAN SOLDIERS BETRAYED AND ABANDONED BY UNITED NATIONS**

Having been deprived needlessly and unjustly of my beloved son by the loss of his life or liberty in the Korean war, I hereby lodge this claim against the United Nations Organization for \$1 million as damages for that loss.

I shall bring witnesses and submit documentary evidence to prove that the United Nations Organization, having taken over control of the Korean war, and having accepted the obligations imposed by its acceptance of the loyalty of the American soldiers fighting under the United Nations flag, did fail in these obligations by committing the following breaches of faith and loyalty constituting the betrayal and abandonment of my son.

Charge I: Most of the U. N. members did not back him with their soldiers as they were obligated to do under their contract.

Charge II: The U. N. kept a Red member on its military committee, where he could aid the Red enemy.

Charge III: By this and other means the U. N. assured the Chinese Reds that if they attacked the U. N. would not do its utmost to defeat them.

Charge IV: The U. N. then tied the hands of my son, denying him strategic and tactical support of routine blockade, bombing, and hot pursuit, removing his leader on the verge of victory and ordering cease-fires each time victory was at hand.

Charge V: The U. N. failed to expell the member who had started the war and who supplied the enemy with munitions.

Charge VI: The U. N. did not prevent its members from trading with and supplying the enemy with the means to kill my son.

Charge VII: The U. N. made no effort to enforce the truce violated by the enemy's holding several thousand troops fighting under the U. N. flag, including several hundred American soldiers. For over 2 years it has abandoned to the enemy several hundred Americans who fought under the U. N. flag. The deal which freed the 15 airmen is but an incident in the blackmail deal between the Reds and the U. N.

I desire to call as witnesses Gens. Douglas MacArthur, James A. VanFleet, Mark Clark, George E. Stratemeyer, Edward M. Almond, Adm. C. Turner Joy, and other Americans.

ENCLOSURE No. 5

HEADQUARTERS, FIGUITING HOMEFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., September 27, 1955.

Mr. HENRY CABOT LODGE,
United States Ambassador to the United Nations,
New York, N. Y.

DEAR MR. LODGE: We submit herewith an appeal to the U. N. Organization for redress of wrongs. It is submitted by the next of kin of soldiers of 24 States who fought under the U. N. flag.

We request that, with the consent of your superiors in Washington, you place this appeal before the U. N. for consideration by the proper tribunal.

It would appear to all Americans very strange if the U. N., an organization ostensibly devoted to justice, again refuses a hearing to the mothers of American heroes seeking redress for wrongs done their sons—who lost their lives or liberty fighting for the United Nations.

You will recall that the U. N. in 1954 refused to hear the appeal of 70 mothers, traveling to New York from as far as California. A preliminary notice of the present appeal was given the Secretary General on June 23, 1955, with a request for information on the procedure desired by the U. N. in such cases. The mothers have not to date been accorded the courtesy of a reply.

In all fairness, the U. N., which was glad to indemnify those Communist Americans who lost their jobs in U. N. work, should be equally glad to indemnify those non-Communist Americans who lost their sons in U. N. work. Also, as a matter of justice, the U. N. should not be deterred from hearing this appeal, even though the frankly avowed purpose of the claimants is to use the indemnity to purge the United States of the subversive influence of the U. N., thereby protecting future soldiers from similar betrayal and abandonment.

Yours very truly,

EUGENE R. GUILD,
Captain, United States Army, Retired,
Chairman, Claims Committee

(And Acting Also on Behalf of My Son, Killed in Korea).

ENCLOSURE No. 6

HEADQUARTERS, FIGHTING HOMEFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., September 27, 1955.

GI KIN APPEAL TO U. N. FOR REDRESS OF WRONGS DONE THEIR SOLDIER SONS AND HUSBANDS

A committee of parents, representing next of kin of soldiers from 24 States, dead or still in the hands of the Chinese Reds, today visited the offices of Secretary General Dag Hammarskjold and U. N. Ambassador Henry Cabot Lodge to present an appeal for redress for wrongs done them by the United Nations organization.

They entered 7 specifications charging betrayal and abandonment of their soldier kin, and listed General MacArthur, 5 top commanders and others as witnesses. They ask \$1 million indemnity for each soldier thus wronged, and have all signed a pledge which, in bitter irony, obligates them to devote the indemnity to a new kind of tax-free foundation dedicated to purging America of the subversive influence of the U. N., to the end that American soldiers will never again be betrayed and abandoned "by any such alien subversive agency."

This is the second appeal by the kinfolk. In April 1954, 70 mothers and wives, coming to New York from as far away as California, were denied a hearing by Secretary General Hammarskjold and Ambassador Lodge. Similarly, 83 of the mothers and wives of American heroes waited for 2 days, in vain, in front of the White House for an audience with President Eisenhower.

It was not until a full 7 months of torture later, when the Chinese Reds themselves brought the matter into the open by sentencing to prison 11 of the several hundred soldiers they held, that Mr. Eisenhower finally asked the U. N. to act. This unconscionable stalling, coupled with the Government's suppression of the news of the existence in captivity of the 15 airmen for several months in 1954, is evidence of bad faith by the U. N. and the United States Government.

Last spring, in desperation, 2 mothers offered to take their captive sons' places as hostages, and 2 other mothers traveled to Hong Kong in a vain attempt to appeal to their sons' Red captors. And then, on this last Memorial Day, 15 mothers protested by returning their heroic sons' medals to Mr. Eisenhower, stating their sons needed his loyalty, not his medals. The press services, although fully informed by the mothers of this fact, made note that only two mothers had made the medal protest.

Today it is evident that both the U. N. and the United States Government hope that with the return of the 15 airmen, the rest of the Red-held American soldiers will be forgotten and will not continue to be an embarrassment. But here are the Pentagon figures on them: In June 1955 (and today the figures are approximately the same) there were 4,691 soldiers still missing, including 453 of the

original 944 the Pentagon had evidence were in Red hands. Subtracting the 1,550 unidentified bodies now held in Japan leaves 3,141 soldiers still missing.

The Government, despite the basis for a reasonable presumption that many of them are still alive, the basis being that the Reds invariably secretly hold captives of all nations for long periods, has declared them all "presumed dead" in an evident attempt to write them off and be rid of their embarrassing existence.

To the mothers this meant that our Government does not intend to take resolute action to free their sons and is abandoning them, not abandonment for just 2 years of torture, as suffered by the 15 airmen, but forever.

War should not be necessary to free them if a resolute President would convince the Reds that its Red-held soldiers, who offered their lives for America, are regarded not as just a few hundred individuals, but as embodying the soul and the honor of America. And that as such their freedom, or the avenging of their lives, if taken in reprisal, is worth, to all Americans, whatever risk of war resolute action might bring them.

ENCLOSURE No. 7

[News Release No. 286-W]

HEADQUARTERS, FIGHTING HOMEFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., October 5, 1955.

Hon. JOHN FOSTER DULLES,

The Secretary of State,

State Department, Washington, D. C.

DEAR MR. DULLES: Herewith is an appeal for redress of wrongs which is addressed to the United Nations and is signed by the next of kin of soldiers of 24 States who fought under the U. N. flag.

We ask that the State Department request the United Nations to hear this plea for justice. We suggest that it be conveyed to the United Nations that it cannot afford to again turn a deaf ear to these kin of American heroes whose own voices have been stilled by death or Red imprisonment.

The United Nations was quick to indemnify the Communist UN-Americans who lost their jobs in U. N. work, it should be even quicker in indemnifying the non-Communist Americans who lost their sons in U. N. work.

The least it can do, in all justice, is to hear their plea. Please note that all have pledged themselves to use the indemnity not for personal purposes, but for a foundation dedicated to purging America of subversive influences.

Sincerely,

EUGENE R. GUILD,
Captain, United States Army, Retired.

ENCLOSURE NO. 8

[News Release No. 296]

HEADQUARTERS, FIGHTING HOMEFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., December 19, 1955.

Hon. JOHN FOSTER DULLES,

The Secretary of State,

State Department, Washington, D. C.

MY DEAR MR. DULLES: On October 5, as committee chairman representing 56 parents whose sons lost their lives or their liberty in the Korean war, I submitted to you 56 claims for indemnity against the United Nations Organization.

These claims constitute an appeal for redress of wrongs done their sons.

In over 2 months, we have had neither an acknowledgement nor a report of progress on them. May we at this time please have a report from you on the action you have taken?

In order that we might leave no stone unturned, we submitted on September 27 identical claims to Mr. Dag Hammarskjold, Secretary General of the United Nations, personally, and to Mr. Henry Cabot Lodge, United States Representative to the United Nations, personally. Mr. Lodge informed us on September 28 that he had forwarded the claims to Washington, but we have had no word from Mr. Hammarskjold.

If American citizens who believe themselves to have been wronged by the United Nations should not address their appeals for redress through the American Secretary of State, will you please inform us of the procedure you deem correct.

I submit that these bereaved parents do not deserve to have their pleas ignored, whether or not you agree with them, or whether or not their pleas are embarrassing.

Yours sincerely,

EUGENE R. GUILD,
Captain, United States Army, Retired,
Chairman, Claims Committee.

ENCLOSURE No. 9

[News Release No. 297]

HEADQUARTERS, FIGHTING HOMEFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., December 19, 1955.

Mr. HENRY CABOT LODGE, Jr.,
United States Representative to the United Nations,

New York, N. Y.

MY DEAR MR. LODGE: We appreciate your acknowledgment of receipt of the claims against the United Nations, and the information that you had forwarded them to Washington.

We have heard nothing further for more than 2 months, however, and would be grateful to you for a report of action taken upon these claims.

Surely the fact that these claims are embarrassing to the United Nations, as well as to the United States Government, should not operate to deny these parents a hearing.

We are prepared to appear at any designated time before any designated tribunal, with counsel, to show cause as to why the United States should lay these claims officially before the United Nations. We will have testimony from distinguished witnesses to support this.

It would indeed be incredible if the United Nations, an organization established to see justice done, should refuse at least to grant a hearing to the pleas for redress by these bereaved American parents.

Yours sincerely,

EUGENE R. GUILD,
Captain, United States Army, Retired,
Claims Committee Chairman.

ENCLOSURE No. 10

[News Release No. 295]

HEADQUARTERS, FIGHTING HOMEFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., December 19, 1955.

Mr. DAG HAMMARSKJOLD,
Secretary General, United Nations,
New York, N. Y.

MY DEAR MR. HAMMARSKJOLD: You may recall that on September 27 our committee visited you personally, to deliver to you the appeals for redress by 56 parents of American sons who lost their lives or their liberty fighting under the United Nations flag in the Korean war.

These bereaved parents are American citizens who believe themselves to have been wronged by the United Nations. They do not deserve to be ignored, whether or not you agree with them, or whether or not their pleas may be embarrassing to the United Nations Organization.

Surely the United Nations, an organization established to see justice done, cannot deny these American mothers and fathers a hearing on their pleas for redress of wrongs done them.

May we have a report of the action you have taken on these claims?

Yours sincerely,

EUGENE R. GUILD,
Captain, United States Army, retired,
Chairman, Claims Committee.

ENCLOSURE NO. 11

DEPARTMENT OF STATE,
Washington 25, D. C., January 11, 1956.

Captain EUGENE R. GUILD,

*Fighting Homefolks of Fighting Men,
Glenwood Springs, Colo.*

DEAR CAPTAIN GUILD: Reference is made to your letters of October 5, 1955, and December 19, 1955, and to communications on the same matter between you and Ambassador Lodge, who, as you know, is our permanent representative to the United Nations. Ambassador Lodge has just forwarded to the Department of State your letter to him of December 19, 1955, which he received on December 28, and a copy of his answer of January 9, 1956.

As Ambassador Lodge has made very clear, the United States is doing all it can to bring about the release of all Americans who are still held in the Far East by the Communists. This is true not only of civilians known to be in Communist hands, but also of any military personnel who remain unaccounted for, and as to whom any chance remains that they might be discovered to be alive and in Communist hands. As Ambassador Lodge has also told you, the United States has asked and received the full support and assistance of the United Nations, through its General Assembly and Secretary-General, in demanding and pressing for the return of any members of the Armed Forces of the United States and other participating nations who served in the Korean conflict and might now be held by the Communists.

You request that the United States press claims against the United Nations on behalf of the families of American soldiers killed or missing in the Korean conflict. The United States Government cannot press such claims against the United Nations because the United Nations is not responsible for our losses. The Communists are. The United Nations and the overwhelming majority of the members of the United Nations who supported us in various ways in the Korean conflict have sided with the United States in the defense of Korea and in stopping Communist aggression in Korea. We sought and we gained their support and with it we stopped that aggression.

Immediately after the North Korean aggression against the Republic of Korea, the United States sought action by the United Nations Security Council to defend the Republic of Korea against this assault. In a series of resolutions sought and supported by the United States the Security Council gave its backing to our effort to organize the defense of the Republic of Korea against Communist aggression. In particular, it recommended that member states make forces available to a unified command under the United States and requested the United States to designate the commander of these forces. Subsequently, the United Nations General Assembly also expressed its support for this defense.

The United States voluntarily sent its forces to resist the Communists. Fifteen other United Nations members contributed forces, too. Although the total contribution of forces from other members was not as large as we desired, it did amount to about two divisions, which otherwise would have had to come from the United States.

In resolutions passed by overwhelming majorities, the responsible agencies of the United Nations mobilized world opinion behind the United States and the other 15 countries resisting communism in Korea. Also, the General Assembly and its Additional Measures Committee won the voluntary cooperation of important member nations in enforcing against the aggressors an embargo on strategic goods.

From the outset, command of the forces resisting the aggressors in Korea was exercised by the Government of the United States. The decisions of that command were made by our Government, and the United Nations command in Korea received its orders exclusively from our Government through the United States Joint Chiefs of Staff.

Neither the United States Government nor the military command in Korea ever received any orders from the United Nations concerning conduct of the Korean war effort. Specifically, the Military Staff Committee of the United Nations (whose principal functions under the United Nations Charter have become virtually a dead letter) had no part whatsoever in the Korean war.

The United States soldiers and other United States military personnel in Korea have at all times remained under the command of the United States, and of the President as Commander in Chief. At no time have our military personnel been in any sense employees of the United Nations. They fought always under the United States flag. Where the United States commanders in Korea flew the

United Nations flag in addition to our own, they did so to symbolize the fact that the United States exercised the unified command.

In these circumstances the United States cannot bring a claim against the United Nations for the wrongful death, injury, or captivity of United States military personnel at the hands of the North Korean and Chinese Communist aggressors. There can be no doubt that it is the Communist side that must bear full responsibility for the untold loss of life and human suffering that marked the Korean conflict.

The sincere sympathy of your Government, and I am sure of every American, goes out to you and all the families of those who have fought and suffered in Korea. You may be sure that our losses will not be forgotten nor shall we lose sight of our objective of preserving free nations from the threat of armed aggression.

Since your letters and the documents you have submitted evidence the immediate interest of over 50 families in these matters, we are sending a copy of this letter directly to each of the families concerned.

Sincerely yours,
For the Secretary of State:

(Signed) FRANCIS O. WILCOX,
Assistant Secretary.

ENCLOSURE NO. 12

[News Release No. 303]

JANUARY 20, 1956.

In a letter, January 11, 1956, signed by Assistant Secretary F. O. Wilcox, the State Department has refused to transmit to the United Nations the plea to the United Nations of 56 parents for redress of wrongs done their sons who were missing or killed while fighting under the U. N. flag in Korea and who were betrayed and abandoned to the enemy.

The State Department gives two remarkable reasons: As the first, ignoring the fact that American soldiers were deprived of support and protection, being captured or dying with their hands tied, it says that the Communists were solely to blame for what happened. The second reason will surprise all Americans, who were told that the war was a U. N. war, fought with U. N. forces, under the U. N. flag; and that the United States, in directing it, was acting as an agency of the U. N. It is that the U. N., although the letter admits it "sided with us," "gave its backing," "expressed its support," was merely a sympathetic bystander, not responsible for anything.

The letter mentioned "The United Nations Command in Korea," but it evidently was a slip of the pen because it says in effect that no such thing existed, and says the U. N. flag over the headquarters was only "to symbolize the fact that the United States exercised unified command."

The 56 parents who received the letter regard this as doubletalk and an amazing example of buckpassing, the buck being passed from the U. N. to the United States and thence to the Communists. Nobody on our side to blame, but our sons lie dead, betrayed by someone; and others lie in Red prisons for years of torture, abandoned by someone. The State Department seems more intent on defending the U. N. than the United States, but that is normal.

The parents, and I am one, are perfectly aware that this buckpassing letter cannot absolve the U. N. for the crimes against the American soldier committed in its name and under its flag. Nevertheless the State Department, by officially exculpating the U. N. for complicity in the mistreatment of American soldiers, now clears the way for our suit against the Government for collaborating in the betrayal and abandonment of our soldier sons. State cannot now come to court and plead that it was all the U. N.'s fault.

EUGENE R. GUILD,
Captain, United States Army, Retired,
Director.

ENCLOSURE NO. 13

[News Release No. 304]

HEADQUARTERS, FIGHTING HOMEOFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., January 31, 1956.

Hon. JOHN FOSTER DULLES,
Secretary of State of the United States.

MY DEAR MR. DULLES: Your assistant's letter, conveying your refusal to transmit to the U. N. the plea to the U. N. of 56 parents for redress of wrongs done their dead or missing sons, places you in the anomalous position of rushing to the defense of the somewhat less than valiant U. N., while leaving defenseless the gallant mothers of American soldiers.

The letter portrays you as so childlike as to believe that when the ship of state is run upon a rock, the rock is to blame—not the blundering, lubberly captain who runs it upon the rock. That the hand-tying of the American soldier in Korea, depriving him of the support and protection due him under the American flag, and his abandonment by his government and the U. N. to years of Red torture, was all the Communists' fault. It makes you out either that naive or a buckpasser.

The letter has you letting the U. N. have its cake and eat it, too. The U. N. is responsible for stopping aggression, it says, but is not responsible for the evil things done by it to our soldiers. But your assistants should get together on their stories; they have made you rather absurdly contradict yourself. Today you inform the kinfolk that the U. N. is not responsible; yesterday you inform the kinfolk that the U. N. is responsible, and quote the President to prove it.

I refer to "Excerpt from the transcript of the President's news conference of December 2, 1954," on the subject of our Red-held POW's, which on December 20, 1954, you distributed to the kinfolk.

"Moreover, those men were there in conformity with obligations incurred under the United Nations, and were there, in fact, in accordance with the specific request and resolution of the United Nations. How the United Nations can possibly disabuse itself of a feeling of responsibility in this matter, and retain its self-respect, I wouldn't know; * * *."

The letter has you declaring that the U. N. is pressing for the liberation of our men, but we see that the only pressing in evidence is the pressing by the U. N. to reward the captors, the murderers, and the torturers of our men with membership in the U. N.

The letter, besides being puerile, is completely misleading. Among other misinformation is the assertion that the other 59 U. N. members furnished about two divisions of troops. Even schoolboys know that, according to the division slice, the number of troops furnished was equivalent in number to only half a division and, as scattered troops, were equivalent in effectiveness to less than that.

We reject your excuses, and reaffirm our request that you transmit to the U. N. our plea for redress of wrongs. The letter expresses sympathy, but the need from you is not for sympathetic words but for sympathetic deeds.

For the Claimants:

EUGENE R. GUILD,
Captain, United States Army, Retired.

NOTE TO EDITOR.—Any reparations have been pledged for use in removal of the subversives in the United States and its Government responsible for the abandonment and betrayal of the American soldier.

ENCLOSURE NO. 14

[News Release No. 305]

HEADQUARTERS, FIGHTING HOMEOFOLKS OF FIGHTING MEN,
Glenwood Springs, Colo., February 1, 1956.

THE STATE DEPARTMENT LETTER

To COCLAIMANT KIN:

I enclose our reply and renewed request to Mr. Dulles, but the letter was so unbelievably childish and so replete with misinformation that I am adding this review of it.

It was either a deliberate attempt to deceive and mislead you, or evidence of shocking ignorance and ineptitude in high places. If it was sincere; if it represents top-level brainwork in the State Department, such as is applied to our foreign relations, I can only say, "God help the United States."

Paragraph 2: "* * * The United States is doing all it can * * *". How? By making insincere "demands" upon the Reds for an accounting, and in the same breath proving they are insincere by withdrawing our troops capable of enforcing any sincere demand? By playing down and suppressing news of our missing men, and misleading, harrassing, intimidating, and smearing the kinfolk who protest and persist in seeking the news they are entitled to know? By jumping at the chance to write off the missing men and get them out of sight and away from the attention of the American people, by presuming them dead, despite the Communists' habit of holding POW's of all nations for years and lying about it?

By attempting to convince the American people that it is honorable to send boys out to fight and die for them, and then to shirk their duty to share the risk with them by abandoning their soldiers for fear that, by giving them the support and protection they are entitled to, the people at home might be bombed? By degrading the American soldier to the position where he can be and is being betrayed and abandoned with impunity?

If the administration had evidence that all the missing were dead, it would be obligated to so declare—thereby putting an end to the agonized uncertainty of the kin. It is significant that they have not so declared. They say that they have no "evidence" that they are alive, which is far different from saying that they know they are dead. They learned that lesson after the Assistant Secretary of Defense told you in Washington in April 1954, that he did not know "that a single individual is known to be alive"; and after a casualty officer in the Pentagon flatly stated that he was "absolutely convinced" that they were "all most certainly dead." Shortly afterward the Reds announced they were holding the 15 airmen, and also two civilian employees, Downey and Fecteau, whom the Defense Department had long held to be dead.

A recent "bit and piece" of information, as General Van Fleet, who believes his son alive and in the hands of the Reds, would term it, comes from John H. Noble, released after almost 10 years in a Red slave camp, in 1955. He reports stories of Korean vets in Siberian camps and word of the eight fliers shot down over the Baltic in April 1950, and all reported dead by the Russians. (See Reader's Digest of February 1956, p. 157.)

(Pars. 3, 4, and 5 covered in my reply to Dulles.)

Paragraph 6: There was only a pretense of an embargo; hundreds of cargoes, including rubber from Ceylon, reached the enemy in ships of U. N. members.

(Par. 7 covered.)

Paragraph 8: Quibbling. The Communist Chairman of the U. N. Military Staff Committee, while of course not directing the Korean war, nevertheless was in the prime position for receiving and transmitting information to our enemy.

(Pars. 9, 10, and 11 covered in reply.)

Paragraph 2 again: The Government, while trying to give the impression that all are dead, is smart enough to leave a loophole, "However, it is possible that at some time in the future the Communists will admit holding in China additional United States personnel." Deputy Assistant Defense Secretary William H. Godel, in letter July 21, 1955, to Senator Knowland (Congressional Record, July 26, 1955).

Also see State Department note to Kremlin released July 16, 1956.

EUGENE R. GUILD,
Captain, United States Army, Retired.

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Stat

DEPOSITORY

SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

HEARINGS

BEFORE THE Committee

SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY
ACT AND OTHER INTERNAL SECURITY LAWS
OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

EIGHTY-FOURTH CONGRESS

SECOND SESSION

ON

SCOPE OF SOVIET ACTIVITY IN THE
UNITED STATES

NOVEMBER 16, 30, DECEMBER 1, 1956

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SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

FRIDAY, NOVEMBER 16, 1956

UNITED STATES SENATE,

SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION

OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL

SECURITY LAWS, OF THE COMMITTEE ON THE JUDICIARY,

Washington, D. C.

The subcommittee met, pursuant to recess, at 10:35 a. m., in the caucus room, Senate Office Building, Senator Olin D. Johnston presiding.

Also present: Robert Morris, chief counsel; Jay Sourwine, associate counsel; William A. Rusher, administrative counsel; and Benjamin Mandel, director of research.

Senator JOHNSTON. The subcommittee will come to order.

We will begin the hearings on another battlefield this morning. This is a Honolulu witness.

Mr. MORRIS. That is right. The witness this morning, Senator—well, I will ask him to identify himself.

Senator JOHNSTON. Will you raise your right hand? Do you swear the evidence you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

General O'DANIEL. I do.

Senator JOHNSTON. Be seated.

TESTIMONY OF LT. GEN. JOHN W. O'DANIEL, UNITED STATES ARMY (RETIRED)

Mr. MORRIS. General, will you give us your full name?

General O'DANIEL. John W. O'Daniel, lieutenant general, United States Army, retired.

Mr. MORRIS. For how long have you been retired, General?

General O'DANIEL. I retired on the 29th of February 1956.

Mr. MORRIS. You have been a military man all your life, sir?

General O'DANIEL. Forty years.

Mr. MORRIS. Where were you born, General?

General O'DANIEL. Newark, Del.

Mr. MORRIS. Did you attend the United States Military Academy?

General O'DANIEL. I did not.

Mr. MORRIS. How did you first come into the military service?

General O'DANIEL. I attended the first officers' training camp at Fort Myer, Va., and received a provisional second lieutenancy.

Senator JOHNSTON. You say the first officers' training; that was in the First World War?

General O'DANIEL. That is right; yes, sir.

Mr. MORRIS. General, I wonder if you would sketch for us some aspects of your career that would tend to qualify you before this committee as someone who can speak as an authority whom we may consult in connection with the forthcoming inquiry which the Senate Internal Security Subcommittee is conducting or plans to conduct on Communist infiltration of the Hawaiian Islands. You have served as a commanding officer there, have you not?

General O'DANIEL. Yes, sir; I have.

Mr. MORRIS. When did you serve as commanding officer of the Hawaiian Islands, United States Army?

General O'DANIEL. From September 1952 to April 15, 1954.

Senator JOHNSTON. What was your rank at that time?

General O'DANIEL. I was a lieutenant general, commanding United States Army, Pacific, under CINPAC.

Mr. MORRIS. And the designation of that, the military, is USAR-PAC; is that right?

General O'DANIEL. That is right.

Mr. MORRIS. And you say you served there for virtually 2 years during 1952 to 1954?

General O'DANIEL. Yes.

Mr. MORRIS. Now, after your tour of duty was completed there, General, what was your next military assignment in 1954?

General O'DANIEL. April 15, 1954, I became the chief of United States military advisory group in Saigon for Vietnam and Indochina.

Mr. MORRIS. You were chief of the military advisory group in Saigon for Vietnam?

General O'DANIEL. And Indochina at that time; Laos and Cambodia, as well.

Mr. MORRIS. How long did you serve in that command, General?

General O'DANIEL. Until November 18, 1955, when I returned to the United States for age retirement.

Mr. MORRIS. And you retired early in 1956?

General O'DANIEL. That is right.

Mr. MORRIS. Now, you have had other commands in the Far East; have you not, General?

General O'DANIEL. I commanded the 1st Corps in Korea in July; from July 1951 to July 1952.

Mr. MORRIS. And, during World War II, what were your military assignments then?

General O'DANIEL. I commanded the 3d Infantry Division in Europe.

Mr. MORRIS. The 3d Infantry Division did have quite a military record; did it not, General?

General O'DANIEL. It did have. It had 27 Medals of Honor in that 1 division.

Mr. MORRIS. General, in addition to the commands that are strictly military, you have served, for instance, as military attaché in the Soviet Union?

General O'DANIEL. I was there from September 1948 to September of 1950.

Mr. MORRIS. And you were able to observe firsthand the workings of that political state, the Soviet Union?

General O'DANIEL. I was, and I came to some very definite conclusions about it which I think are pretty well agreed upon by everyone by now.

Mr. MORRIS. Now, General, did you find while you were the commanding officer, commanding general, in the Hawaiian Islands, that there was a Communist threat in existence there?

General O'DANIEL. I definitely found that to be so.

Mr. MORRIS. Will you tell us the extent to which you found that there was a Communist threat?

General O'DANIEL. Well, of course, upon—well, even before arriving there, I had heard of the strike that was conducted by the ILWU in, I believe it was, 1948 or 1949, which lasted better than—I am not sure of the time, the number of days. It was a long strike which disrupted the sugar industry there, and also the supplies from the mainland, wherein the Hawaiian people themselves, the loyal citizens, even went so far, some of the women acted as chambermaids in some of the hotels in the town in order to keep the place operating.

Mr. MORRIS. Wherein does the Communist infiltration, to the extent that it does exist, whatever that may be, how does that pose a military threat to the security of the islands?

General O'DANIEL. Well, to me, my personal feeling is that the Hawaiian Islands are very important to our—militarily to us, in that it offers a staging area for any operations that might be necessary in the far Pacific. It offers a natural headquarters for all the commands of the far Pacific. It acts as a depot for supplies to the far Pacific.

Mr. MORRIS. General, for instance, the House Un-American Activities Committee had an inquiry in 1950 which showed that there was considerable Communist infiltration of the islands. You say you were there during 1952 and 1954.

General O'DANIEL. Yes.

Mr. MORRIS. You frequently visit the Hawaiian Islands in addition, do you not?

General O'DANIEL. Yes. I have gone through 2 or 3 times since I commanded in Hawaii.

Mr. MORRIS. Have you been able to observe, General, whether or not the danger is abating, or whether it is getting more serious, or whether it is remaining as strong as it was at that time, any way of telling us?

General O'DANIEL. To me, the danger is just as great or greater than it was then.

Mr. MORRIS. Now—

General O'DANIEL. I qualify that for this reason: I believe that, up until last year, there were some \$50,000 a year appropriated for a committee in Hawaii on the government level to control, to attempt to control, subversion; and I believe that since that time that has been cut to \$20,000, which makes it practically inoperative.

What has brought that about, I don't know. However, it is common knowledge that the Communists or the ILWU supports their activity in that area with about \$250,000 a year. I don't know the facts on that. I can't quote any authority other than hearsay on that, but that is common knowledge in Hawaii. It is the one that IMUA has used.

Mr. MORRIS. What is IMUA, General?

General O'DANIEL. IMUA is—the word, I believe, means to help—

Mr. MORRIS. IMUA, is it not, sir?

General O'DANIEL (continuing). In Hawaiian, and it is the result—it resulted as the outcome of this strike in the forties, between 1945 and 1950, whenever that happened, I have forgotten the date, wherein a group of loyal citizens banded together with the idea of doing something about it on a nongovernment level, toward bringing to the people of Hawaii the seriousness of the Communist threat.

Such people as Governor, ex-Gov. Lawrence M. Judd was a member of it, I believe he is now president of it. Mr. Walter Dillingham or Mrs. Walter Dillingham was a member of it, and many prominent citizens in Hawaii are members of it. I myself joined it, as did many of my military personnel, in 19—in the spring of 1954. Our own USAR-PAC personnel contributed \$1,000 to IMUA.

Their only source of income is from contributions, and they set up a budget, I think of \$50,000, for the year before last. Last year, I don't recall what it was.

I spoke before IMUA on my return from the Far East in September of this year.

Mr. MORRIS. Well, General, did you observe Communists in action while you were commanding general there? That is, Did you have occasion to know that they were there, that they were in operation, and generally—

General O'DANIEL. I knew they were there as a result of the Hall trials and the trial of the seven there conducted in a Federal court, Judge McLaughlin's court. And we were, I was, aware of it through intelligence reports from my own headquarters that I had an opportunity to view.

It was my—I felt it my duty to inform the people of, principal people of, Hawaii as to the seriousness of the situation, and held briefings for them in order to bring them up to date as to what information we had.

Senator JOHNSTON. General, your past experience in Russia, and knowing their pattern and how they proceed and go about spreading communism, made it so that you did not have to be told when a man was a Communist, but you could see it with your own eyes from past experience; is that correct?

General O'DANIEL. That is correct, sir, yes; very definitely.

Mr. MORRIS. General, where were the Communists lodged; what did they do, the Communists?

General O'DANIEL. They control the sugar workers, most all of them belong to the ILWU, International Longshoremen's, Warehousemen's Union, and they control the port operators, the stevedores; and they can, through calling a strike and shutting down of work there, disrupt the economy of the whole islands.

Senator JOHNSTON. What about out on the farms, too; are they organized, the plantations?

General O'DANIEL. The plantations; yes, sir.

Senator JOHNSTON. The workers are organized there, and what about—do they have any Communists in that organization, or is that the same organization?

General O'DANIEL. I can't give you details of that, sir; I am sorry.

Mr. MORRIS. General, knowing what you did—you had access to security reports out there, did you not, sir?

General O'DANIEL. Yes, sir.

Mr. MORRIS. Knowing what you did about the Communists, the presence of Communists on the islands, what steps did you, as the commanding general, take to anticipate any action on their part?

General O'DANIEL. The Army commander's job in the Pacific, in Hawaii, he is charged with the defense of the Hawaiian Islands under commander in chief, Pacific, who at the beginning of my tour was Admiral Stump, who is still there. The Army commander was charged with the defense, the overall command of CINPAC.

We began conducting practice alerts at my headquarters every 3 months. We occupied our alert command posts with the entire personnel for 24 hours at a time, and the purpose of it was to bring in all, not only the military but, with the consent of the Civilian Defense Agency and the Civil—what is it; Civil Aeronautics Patrol, isn't it, another air organization—to tie in the communications and to conduct exercises based upon what might happen.

One exercise we had was that we visualized a Communist infiltration and uprising within the islands simultaneously with an attack from the outside. That was one, one of the exercises that we held.

We checked with the civil defense agencies as to their readiness. They have a very fine blood bank in Hawaii, by the way, and ran it as near like an actual operation as possible. We did that many times.

To take care of any eventuality, whether it be for a local disturbance, whether it be for a tidal wave, whether it be war, or whatnot, our action—it was a pattern that could be followed regardless of the type operation that you were confronted with.

Mr. NORRIS. Now, what could be the consequences, militarily speaking of Communist infiltration, or Communist infiltration that would amount to something more than that, namely, control of, as you say, the ILWU and the dockworkers and plantation workers, what would be the consequences in the event of some kind of an emergency that we could anticipate, General?

General O'DANIEL. Well, I think the military commander would envision that, in all probability, all these dockworkers and whatnot would have to be supplied from his own military forces in that case, and no doubt would have made plans for such utilization, I would think.

That was in my mind as to action that should be taken.

Senator JOHNSTON. General, I believe you said every 3 months you set aside 24 hours to do nothing but plan and make preparations.

General O'DANIEL. Yes, sir, that is correct; the staff, the alert staff.

Senator JOHNSTON. I imagine you did that because you sensed the dire need for that at that time.

General O'DANIEL. Yes, sir.

Senator JOHNSTON. That was very expensive, in a way, to the Government, to give up 24 hours' time to be doing that kind of work, wasn't it?

General O'DANIEL. Yes, sir, but a very worthy investment, we felt.

Senator JOHNSTON. Do you think, you still think, then, at the present time, that the situation is such that it would be beneficial to us to keep a very close watch on the situation there?

General O'DANIEL. I do indeed, yes, sir; emphatically.

Senator JOHNSTON. We cannot overdo the thing, as you see it?

General O'DANIEL. No, sir; it cannot be overdone. Communists are out waging war, applying all the nine principles of war according to our concept of the principles that are applied in a shooting war, and the very ones we teach in our own military schools to be applied in a shooting war.

Mr. MORRIS. General, did you find that the Communists in the Hawaiian Islands did apply these nine principles of warfare that you just mentioned now?

General O'DANIEL. Well, not—no; I can't say that they applied all of them while I was there. They certainly applied some of them.

One of them was the subversive activity warfare, and the propaganda warfare, which they have applied very vigorously under one Mr. McElrath, who has been their spokesman, and he has done his best to tear down the Government.

Mr. MORRIS. Who is Mr. McElrath?

General O'DANIEL. He is their mouthpiece; the radio announcer for the ILWU in Hawaii.

We in IMUA developed a 15-minute counterprogram; a lot of our money went into that.

Mr. MORRIS. That is Robert McElrath; is it?

General O'DANIEL. Yes, sir; Robert McElrath; that is right.

Mr. MORRIS. General, you gave me one of the consequences that might be expected, military consequences, that might be expected, from any Communist infiltration in the event of emergency. I think in executive session you elaborated on that considerably more, General; some of the consequences we might expect.

General O'DANIEL. From what?

Mr. MORRIS. From the Communists, in the event of an emergency that might develop in the Far East or any part of the world.

General O'DANIEL. Give we a lead there.

Mr. MORRIS. You stated, General, that you were prepared for simultaneous attack; you were prepared for possible disruption of communications.

General O'DANIEL. That is right; disrupting communications, disrupting of our supplies that would be necessary to support a force in that area. And, also, it would necessitate somebody having to care for the people that lived in the islands, should that be disrupted.

Mr. MORRIS. These are all beyond a shutdown, or a general strike.

General O'DANIEL. Yes.

Mr. MORRIS. These are in addition to it. And all of these things which you told us about in executive session, General, and you have just repeated here now, these were things that you anticipated—

General O'DANIEL. That is right.

Mr. MORRIS. From your military vantage point when you were the commanding general, and you had to anticipate them.

General O'DANIEL. That is correct; yes, sir.

Senator JOHNSTON. General, it is true that the leaders know that they must probably advocate the good of the workers sometimes, in

order to put across things that they want to put across for the Communist Party; is that not true?

General O'DANIEL. Yes, sir; that is correct.

Senator JOHNSTON. So they maneuver the public into that position.

General O'DANIEL. That is correct, sir.

To me, Hawaii is important, the things that have happened there are important, not only to Hawaii but as a warning to all of us in America, and I would say in other parts of the world, too, in that, at the inception of the introduction of the ILWU into that country, there were no labor unions there in Hawaii, and it was a fertile field for any group to move into. And the ILWU, which is Communist infested, took advantage of that and, typical of Communist action, did move in.

Senator JOHNSTON. It does not take a large percentage, sometimes, to really handle the situation, either; does it?

General O'DANIEL. No, sir. In the course of carrying out my concept of the Communist Party, being as a military organization and operating as such, and applying military principles, a few men run a military organization, the commander and the staff, and the soldiers are the followers of those commanders and staff.

Likewise, the workers are the followers of the Communist leaders, and there is not much they can do about it when they once gain control.

When you are in southeast Asia, you never hear communism mentioned by the Communists. You hear "land reform" mentioned by the Communists, and it is not until the peasant agrees to the land reform, that takes over the land, that then he finds out that he belongs to the Communists, and he is then hooked, and he is hooked for good.

So that is typical of their operation. They gain their membership under the guise of one thing; and, upon acquiring the membership, then they apply their Communist action against those people and use them as their army.

That is typical of Asia and it is typical of the Communist action everywhere, sir, as I am sure that is not news to anyone.

Mr. MORRIS. General, I think you were setting forth before which of the nine principles of military warfare you found the Communists were putting into practice against you while you were the commanding general of the Hawaiian Islands.

General O'DANIEL. The nine principles that I have in mind, I read from this report on Soviet total war, Mr. Walter's committee, which I was asked to contribute to.

Mr. MORRIS. You are now reading. General, from the statement that you contributed to that particular study?

General O'DANIEL. Yes, sir. And the nine principles of war that I refer to are the principles of: The objective, simplicity, unity of commands, the offensive, maneuver, mass, economy of force, surprise, and security.

They are the nine principles of war that we teach our military, in our own military schools, and I claim they are being applied by the Communists in all their activities, and you have more examples of those than you do have military examples.

Mr. MORRIS. And this, you say, is true in the Hawaiian Islands?

General O'DANIEL. Yes, sir. The objective—let's start to repeat what the Communists' objective is. We say in our definition of "ob-

jective" that a commander is justified in using any and all means available to him to capture his objective, whether it means by deception, by maneuver, by a lie, by breaking a treaty, or what not, it still contributes to the objective, and it is justifiable in waging war.

Mr. MORRIS. General, what is the military importance, the strategic importance, of the Hawaiian Islands?

General O'DANIEL. Well, it is, next to the United States, the main base for the whole Pacific.

Mr. MORRIS. Next to the United States.

General O'DANIEL. Yes, sir. It is a staging area. It is a training area. It is the command area for the Pacific; for the Army, Navy, and Air in the Pacific.

Mr. MORRIS. General, based on all your experiences, that is, military experiences, strictly military, the experiences you had as military attaché in Russia, together with the fact that you know the islands and you have been there a great deal of the time, and you visit them all the time, do you think that a useful purpose would be served, other than our own legislative purpose, if hearings were held about Communist infiltration in those islands?

General O'DANIEL. I do; and I am delighted to know that such a thing is going to happen. I was hoping it would happen for the last 4 years.

Mr. MORRIS. Senator, I have no more questions.

Senator JOHNSTON. That is much more needed now than it was, say, a few years ago when the local government in Hawaii had more money to make the proper investigation, too, is that not true?

General O'DANIEL. Yes, sir.

Senator JOHNSTON. For some reason, they have cut down on the amount of appropriation for this kind of work, and it leaves less protection against infiltration of Communists.

General O'DANIEL. Yes, sir.

Senator JOHNSTON. Their activities.

General O'DANIEL. Yes, sir, it does.

Senator JOHNSTON. So you think we should go forward with an investigation out there?

General O'DANIEL. That is my personal opinion, sir. I think it is a very timely thing.

Senator JOHNSTON. Any other question?

Mr. MORRIS. Do you have any questions?

I have none.

Senator JOHNSTON. General, we certainly thank you for coming before us today.

General O'DANIEL. I appreciate the opportunity of having been here.

(Whereupon, at 11 a. m., the subcommittee recessed, subject to call.)

(The following subcommittee news release was ordered into the record at this point:)

[Release to afternoon papers of Monday, November 19, 1956, from the Senate Internal Security Subcommittee]

WASHINGTON, November 19.—Two questions regarding the importance of Honolulu as an element of the national security of the United States were posed to Adm. Charles M. Cooke, USN, retired, by the Senate Internal Security Subcommittee early last month.

These questions were:

(1) What is the strategic military importance of Honolulu and the Hawaiian Islands?

(2) Could a disruption of this port and these islands by Communist internal forces affect our national security?

Chairman James O. Eastland (Democrat of Mississippi) today made public the replies of Admiral Cooke, who was chief strategical officer of the Navy during most of World War II.

In a letter dated October 23, 1956, Admiral Cooke said:

"The strategic importance of the Hawaiian Islands can be pointed up by a brief reference to the attack on Pearl Harbor and the opening of the war with Japan in 1941. This attack did not include a strong landing force, but it might have done so in a manner similar to the attack against Midway Island undertaken by the Japanese 6 months later.

"Thus the possibility existed of Japanese occupation of the Hawaiian Islands. If this had occurred the Japanese would have been in a position to disrupt our Pacific coastal shipping and to conduct attacks along the Pacific coast. Any efforts by the United States to move toward regaining control of the western Pacific, to maintain and use a supply route to Australia and New Zealand would necessarily have been delayed for several years.

"For many years we have recognized that the establishment in the Western Pacific and in Eastern Asia of a strong power hostile to the United States would endanger American security in a critical way. In this day and age of the development of nuclear power of the great range of nuclear powered shipping and aircraft, the maintenance of control of the Pacific Ocean by the forces of freedom led by the United States is vital to the future of the world.

"During the last 11 years Soviet communism has pursued an active objective toward the conquering and establishing control of all East Asia. If communism is to carry out this purpose it must succeed in controlling sea communications along the east coast of Asia south to Southeast Asia, Indonesia and the entrances to the India Ocean. If the free world is to prevent communism from carrying out these objectives it must be in a strategic position to bring to bear naval power including, of course airpower against Communist aggressive use of the sea communications in this area. Further, the United States must be capable of projecting economic and military support to the land power forces of freedom in the western Pacific.

"I believe that your committee, other committees of the Congress, and agencies of the United States Government have established irrefutably that Communist organizations in our midst are organized and controlled and are devoted to the interest of the world Communist conspiracy.

"It goes without saying that if Communist power continues to advance in Southeast Asia and in the Pacific, if it succeeds in bringing Formosa into Communist control and Japan into the Communist orbit, then Communist domination of the Hawaiian Islands could spell irretrievable disaster to the United States."

SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

FRIDAY, NOVEMBER 30, 1956

UNITED STATES SENATE,
SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION
OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL
SECURITY LAWS, OF THE COMMITTEE ON THE JUDICIARY,
Honolulu, T. H.

The subcommittee met, pursuant to adjournment, at 9:30 a. m., in the Senate Chamber, Iolani Palace, Senator James O. Eastland (chairman) presiding.

Present: Senators Eastland, Watkins, Johnston, Welker and Senator Butler.

Also present: Robert Morris, chief counsel; Benjamin Mandel, research director.

Senator EASTLAND. Let's have order, please.

First, the chairman would like to state this to the photographers:

We desire to cooperate with you in every way, but you cannot get between a witness and the committee. You may take pictures while a witness is testifying. If it interferes with his testimony, then we will have to ask you to desist until his testimony is concluded. Of course, you are at perfect liberty to take pictures before a witness begins his testimony.

The United States Senate Internal Security Subcommittee has been drawn to these Hawaiian Islands by evidence accumulated, during the last 5 years, that Communists have been active here.

We have a mandate from the United States Senate that compels us to learn and to report to that body all relevant facts bearing on the internal security of the United States of America.

This is so in order that whatever legislative action the Congress of the United States should take, may proceed from a thorough and comprehensive understanding of present-day reality.

Perhaps new legislation, bearing on subversion, should be enacted. It may be that existing laws have become antiquated and outmoded by the changing scene.

During the past year we have been engaged in hearings on the scope of Soviet activity in the United States. On February 8, 1956, as chairman of the subcommittee, I announced for the subcommittee the following, and I quote:

The Internal Security Subcommittee is beginning a series of hearings on the scope of Soviet activity in the United States.

We shall try to determine to what extent Soviet power operates through the Communist Party here and to what extent other organizations have been devised to effectuate its purposes.

We shall study the structural revisions that the Communists have made in their network in order to avoid detection, and endeavor to trace the movement of individual agents through those changing structures.

Since that time we have observed that the Communist Party, which has frequently been adjudicated to be an instrument of Soviet power, has been organizing and reorganizing its internal structure, so as to escape detection, to obscure its hitherto proclaimed designs and generally to heighten its own effectiveness.

More and more we have found that formal party membership with such trappings as party cards have become outmoded and that more flexible binding ties have been devised.

The distinguished Director of the Federal Bureau of Investigation, Mr. J. Edgar Hoover, reported this when he testified before a committee of Congress on December 8, 1953, and I quote from Mr. Hoover:

No longer are Communist Party membership cards issued; maintenance of membership records are forbidden; contacts of rank and file members are limited from 3 to 5—the basic club unit. Most of the local headquarters have been discontinued and party records have been destroyed.

That is Mr. Hoover's statement.

By way of example, on February 21 we commenced a series of hearings on the nature of the relationship of those Americans who have worked for the Tass News Agency.

We observed that that Soviet news agency had drawn its personnel from the ranks of the Communist Party but that as soon as the employer-employee relationship was established, all formal ties to the Communist Party were immediately severed.

Consequently, when we asked an employee if he were a Communist Party member the day before he took up employment he could not enter a sworn denial in the record but instead invoked his privilege against incrimination under the fifth amendment to the Constitution.

However, when we asked him if he were a Communist member the day after his employment, he felt he could and did enter a denial in the record. This was so because there was an actual regulation passed that employees were to sever their formal ties.

Meanwhile, however, we found that these people continued to meet their old Communist associates and have attended Communist meetings, but without the encumbrance of formal party membership.

In other hearings we found evidence of this trend toward the streamlining of structures to meet the changing political currents of the world.

We are here today mindful of the generous hospitality of Gov. Samuel Wilder King, who has done everything humanly possible to make us feel welcome. We have come to know not only the beauty that abounds on these islands, but the charming hospitality of the very fine people here, and we are grateful for all of it.

We have asked several score of witnesses to testify during these coming hearings. We have selected these witnesses because we feel that they are competent to testify about conditions on these islands. We hope that all of them will be responsive and contribute to the understanding of current reality and to the welfare of their country in its struggle against communism.

Senator Johnston, would you have anything to say?

Senator JOHNSTON. First, I want to commend the chairman for the statement that he has made. I endorse it in toto.

We are here seeking information. We are seeking information in order that we may know how to meet the situations of the world today.

This committee has been making investigations of the same nature that we are making here, in the various States of the United States. We have gone into several of our larger cities to make investigations. So this is nothing new for us to go to the people of the United States to make investigations.

In order to make investigations we must have people to come before us and testify, and testify as to what the conditions are in whatever particular community we happen to go to hold the hearings. So today we are in your beautiful islands and as has been so timely and well said by our chairman, the hospitality of your people is beyond anticipation. And I want to tell you that I expected hospitality to the very highest degree when I thought of coming here.

Now, then, today and all through these hearings, I don't want the people of these islands to think that we have picked you out, thinking that probably you are infiltrated with communism, any more than we have picked out other cities of our Nation, but we are here to find out what the situation is, and to make a report back to our full committee of the conditions that we might find here.

I hope that the people that we call before us as witnesses will co-operate with this committee and give us the desired information, in order that we all may be true, loyal, and good Americans wherever we may reside.

Senator EASTLAND. Senator Watkins.

Senator WATKINS. Thank you, Mr. Chairman.

I have listened with close attention to the statements made by my colleagues on this committee.

I happen to be the ranking Republican member of the committee present today. I want to say to you now that this committee has not proceeded at any time on a partisan basis. We are all Americans, and irrespective of our party membership, we are all opposed to communism. We are all supporting loyally this country in its fight to maintain freedom throughout the world.

So today I want to mention that, so that you will know there is no division on the committee with respect to the objectives of this committee. I have been a member of it since its organization a number of years ago. We have attempted to conduct fairly and thoroughly the investigations that the Senate of the United States has entrusted to us. And as has already been said, we conduct the same type of investigation here that we conduct anywhere else in the United States.

It has been my privilege to serve with other chairmen, Senator McCarran and Senator Jenner of Indiana, and I want to say to you that all of the chairmen, including the present one, have been fair in the conduct of these hearings.

Sometimes people wonder if these hearings are necessary. That is not for this committee to determine. It has been determined by the Congress of the United States and specifically also by the Senate.

As our chairman has announced, we have a specific duty to perform.

We have not sought headlines; we have attempted to develop the facts and preserve just as far as we possibly can the rights of individual citizens who appear before the committee.

This is not a trial. No one is placed on trial or no organization is placed on trial. We are here to develop facts for the purpose, first of all, of enabling the Congress of the United States to either amend or repeal legislation it now has or to adopt new legislation with respect to the problems that come to this committee for investigation. I think that should be emphasized at all times, that this is not a trial. The witnesses who appear here are supposed to help us with the facts, to testify cooperatively and aid the committee in the job that has been assigned to it. And I am hoping you will.

Now may I, in concluding my remarks this morning, join with my colleagues in great appreciation of the beauty of the island and the wonderful hospitality we have found out here.

I was here in 1951 and spent nearly a month here. I had a daughter and a son-in-law living here at the time. I didn't come out on an official mission but I met many of your people. And many of the people of Utah have engaged in business here. I think we probably have as large a representation in the islands as any other State in the Union.

I am happy to be here. Mrs. Watkins is happy to join me in what I have said with respect to your hospitality and the beauty of this area.

Senator EASTLAND. Senator Welker.

Senator WELKER. Mr. Chairman, may I join with my colleagues in saying that the warmth of the reception received by this committee will always be remembered by the Welker family. Nothing could have been more wholesome, more genuine. You are all 100-percent Star-Spangled Banner Americans in the view of the Senator from Idaho.

The beauty of these islands need not be praised again. But coming here to this bit of heaven for the first time, I wonder if you appreciate what you have here in this marvelous country, these islands, that have everything in the world, it seems.

May I say this. That not one single person upon this committee, including the chairman, asked for the job that we now have. You, the American people, through the Congress of the United States, established the Internal Security Act; you were the people who formed this committee, and its members were chosen, not from our own desire or wishes but because of the fact we had a job to do in the Senate of the United States. And we will do that in an objective, fair, honest way.

And may I say thanks to you, and all of you, for your cooperation again. Mrs. Welker and our teen-age daughter, Nancy, and I join in saying we are happy very much to be here.

Senator EASTLAND. Senator Butler.

Senator BUTLER. Thank you, Mr. Chairman.

Mr. Chairman, I am reminded of the story of the Three Little Bears. By the time it gets down to me, all the porridge is gone. [Laughter.] But I want to say that I come here with a spirit of great friendliness.

We have been accepted by the people of these lovely islands with open arms. I personally have nothing to gain by being here. I have nothing against anybody in these islands. I am here to determine facts, and I know that you all will cooperate in that effort.

I am delighted to be here; my wife is with me and we have had a marvelous time in your islands, and we are looking forward to a marvelous time. You are a very friendly and lovely people, and we are here in that same spirit of friendship and well being for all good American citizens.

Senator EASTLAND. Governor King will be the first witness.

Governor SAMUEL WILDER KING. Thank you, Senator.

Mr. Chairman, I have a brief statement I would to read.

Senator EASTLAND. Will you stand and hold your hand up, please?

Do you solemnly swear the testimony you are about to give before the Senate Internal Security Subcommittee of the Senate of the United States will be the truth, the whole truth, and nothing but the truth, so help you God?

Governor KING. I do.

TESTIMONY OF SAMUEL WILDER KING

Mr. MORRIS. Governor King, please be seated.

Senators, Governor King made available to the subcommittee yesterday, in compliance with the 24-hour rule that we have, his statement and he would like to read that at the beginning of the testimony.

Senator EASTLAND. Proceed, Governor.

Governor KING. Do you desire me to identify myself, Mr. Chairman?

Senator EASTLAND. You are already identified in the record.

Governor KING. Mr. Chairman and members of the committee.

As Governor of Hawaii, I welcome the investigation into the Communist problem here in this Territory which this Senate Subcommittee on Internal Security is now holding.

We know there are Communists in these islands.

We know who some of them are, but we do not know how many others there may be.

During April 10 to 19, 1950, a subcommittee of the United States House of Representatives Un-American Activities Committee conducted an investigation here into the same problem.

Some 39 witnesses called before this committee invoked the protection of the fifth amendment of the Constitution to justify their refusal to answer questions put to them by that committee.

Locally these persons are referred to as the "reluctant 39."

They continue to be at large, active in various pursuits, and most of them have made no effort to deny that they have been or are Communists.

More recently, from November 5, 1952, to June 19, 1953, on charges preferred by the United States Government, based on information developed by the FBI, seven members of this community were tried and convicted under the Smith Act for conspiring to teach and advocate the overthrow of the United States Government by force and violence.

The trial was held in the United States District Court for the District of Hawaii before a Federal judge and a local jury. All 7 were found guilty; 6 of this group were sentenced to imprisonment for 5 years and fined \$5,000 each; the seventh, a woman, was sentenced to 3 years imprisonment and fined \$2,000.

For a period of well over 3 years, since July 1953, all 7 of these persons have continued at liberty on bail, with very little interference

with their normal pursuits in this community, pending action on their appeals in the United States Ninth Circuit Court.

Through the Territorial Commission on Subversive Activities, other evidence of Communist affiliation is available to me. However, the Territory of Hawaii, notwithstanding our knowledge of the Communist threat in these islands, has no authority to charge and punish Communists under any territorial law.

The Communist problem is a national problem. Our part of it here in Hawaii is only a small segment of the picture that has been revealed to the American people repeatedly in trials in New York, Pittsburgh, Chicago, Los Angeles, Seattle, and elsewhere. However, we do realize that, because of the great importance of these islands as a strategic base in the national defense, it is most important that no disloyal element be tolerated.

Because this is a national problem and can best be handled through national agencies, by the Congress itself through the United States Department of Justice and the United States courts, I am glad that this committee has come here to determine what might be done to help us stamp out what Communist influence exist here.

Perhaps the evidence you develop here may justify the United States Government to invoke the provisions of the Communist Control Act of 1954, Public Law 637, 83d Congress.

This would free industry from the necessity of recognizing such organization as legitimate labor unions, with which they are now required by law to negotiate labor contracts.

There is a great deal of local resentment against the activities of local Communists. This is shown in expressions of public opinion and in organizational counteractivity, but the difficulty is that our people find there is nothing very effective that can be done on the local level. Unfortunately, the Communist problem is intertwined with legitimate labor activities.

The International Longshoremen's and Warehousemen's Union, the ILWU, headed by Harry Bridges, extended its activities to Hawaii shortly before World War II. Jack Wayne Hall was appointed the regional director by Harry Bridges in 1944 and, when World War II ended, this union saw the opportunity to expand in the Territory.

Since then, every effort to expose and combat the anti-American activities of Jack Hall and his immediate circle of identified Communists has been distorted by Communist propaganda as an attempt to disrupt a labor union. Anyone who speaks up against communism and its adherents here immediately becomes a target for denunciation in a typical smear technique and is held up to the union members as being antiunion and antilabor.

In 1950 the CIO expelled the ILWU and several other unions on the mainland on the grounds that they were Communist dominated. Today the same leaders are still running the ILWU.

Also we know that the leaders of the UPW, the United Public Workers, originally organized here as a branch of the United Public Workers of America, have been identified as having been members of the Communist Party.

As Governor, I have tried as much as possible to disassociate the Communist leaders from the rank and file of both the ILWU and the UPW. I have repeatedly affirmed my confidence in the basic loyalty and patriotism of the rank and file of these two unions. However, the

members of these two organizations continue to give their leaders active support despite their Communist records. The leaders have been successful in convincing the rank and file that every charge against them is an attack on labor.

The National Labor Relations Act may require industry to deal with these unions but no such compulsion rests on government. I have consistently as Governor refused to recognize or meet with any person known to have been a Communist, who has not shown an honest dissociation from the Communist movement. But until some authority greater than any at the command of the Territorial government here in Hawaii can charge, convict, sentence, and imprison these Communist leaders, such efforts as we may make to clean house cannot be fully effective.

I therefore hope that, if the facts justify it, the committee will see fit to recommend that the two unions which we know to have Communist leaders in positions of authority be listed as Communist-infiltrated under the Communist Control Act of 1954.

That would be a great help to us who have been fighting communism and trying to find some means within our power to eliminate the danger in our midst, in order that our unions can take their place in the community as legitimate labor organizations under leaders of unquestioned loyalty to the United States.

We feel that the Territory has demonstrated its desire to combat communism in these islands.

During the waterfront strike in 1949, the legislature was called into special session by former Gov. Ingram M. Stainback and passed a bill that authorized the Territory to take over the waterfront and load and unload ships through governmental agencies.

The creation of a Territorial Commission on Subversive Activities is another indication of our awareness of the problem and our desire to solve it.

We require a very stringent loyalty procedure applying to all governmental employees, Territorial and county. We have weeded out all known Communists in government employment.

Infiltrated by a handful of dedicated Communists, legitimate labor unions are dominated, even to the extent of the demonstration in opposition to these hearings, because the membership of these unions are simply not convinced that their leaders are Communists.

The freedom permitted these leaders, even after conviction in Federal court, is a further demonstration to the membership that the charges and the convictions of these Communists were merely a union-busting, antilabor frameup.

Once the truth of the charge against these Communists is realized by the workers, they will be rejected and replaced by men of unquestioned loyalty. The people of Hawaii are loyal and patriotic Americans. We have a very high percentage of veterans in our population. We maintain an active and highly efficient National Guard, recruited to full strength for which funds have been appropriated.

We have close and friendly relations with the military forces stationed here in large numbers. I cannot for a moment believe that any Communist-led "uprising" against the authority of the United States is possible.

However, strikes, work stoppages, slowdowns, and other phases of economic tactics common to controversies in industry could well be

used by these Communist leaders to impair America's military activities. These possibilities point up against the national character of our Communist problem.

The presence of this subcommittee is a logical development of the realization all over the United States that the Federal Government must take the lead in bringing relief from Communist activities to separate communities in our Nation.

We have every desire and hope that your hearings will substantially advance this common cause.

And, Mr. Chairman, anything I can do to place myself and the Territorial government and its agencies at your command will be done very gladly and very willingly.

Senator EASTLAND. Thank you, Governor King. The chairman desires to congratulate you on the very intelligent and very able and patriotic statement.

Senator Johnston.

Senator JOHNSTON. I notice you state here that some 39 witnesses called before a committee here used the fifth amendment. How many witnesses testified; approximately, if you don't know the exact number?

Governor KING. I do not know, Senator.

Senator JOHNSTON. I just wanted to get at how many.

Governor KING. I don't know. Could I ask Mr. Stephenson, who is the chairman of the Territorial Commission on Subversive Activities, whether he remembers how many were called, how many were subpoenaed.

There were 39 who refused to testify.

Senator JOHNSTON. If you can furnish that for the record, that is the only thing I want, just to see what percentage it was that used the fifth amendment.

Governor KING. There were several who did testify willingly.

Senator JOHNSTON. I believe you stated here they found seven guilty and sentenced them. Were there others accused at that time?

Governor KING. No, sir. The charge was made against 7 individuals, one of whom was Jack Hall; the other 6 were the publicly announced secretary of the Communist Party of Hawaii, the editor of the Honolulu Record, and the wife of another person. All in all, six other people, none of whom were labor leaders but all of whom were active in the Communist movement in Hawaii. No other people were charged, only seven, and they were unanimously found guilty by a jury of local people, including representation from each of our racial groups. It was a cross section of our community.

Senator JOHNSTON. Do you know whether or not they found any others involved at that time?

Governor KING. Not at that time or at that trial.

Mr. MORRIS. Mr. Chairman, the Governor has referred to a Mr. Stephenson here.

I wonder if Mr. Stephenson would identify himself for the record.

Mr. WILLIAM B. STEPHENSON. I am William B. Stephenson, chairman of the Territorial Commission on Subversive Activities.

Mr. MORRIS. What is that commission, Mr. Stephenson?

Mr. STEPHENSON. That is a commission created by act of our legislature of 1949, consisting of 7 members appointed by the Governor, confirmed by our senate; at least 3 of the members of that commission

must be lawyers, the chairman must be a lawyer; all 4 of our counties are represented, and no more than 4 members of the commission may be from a single political party.

Governor KING. Mr. Chairman, this is the agency that I referred to as one of the indications of the Territory's desire to combat communism, that the legislature in 1949 created a commission on subversive activities that had certain powers, but not punitive powers—powers of investigation and of subpoena and taking testimony under oath. And I referred to the Territorial Commission on Subversive Activities; Mr. Stephenson is the chairman of that commission at this time.

Senator EASTLAND. Governor King, would Mr. Stephenson be available to testify during the hearing?

Governor KING. No reason why not. He certainly is available.

Senator EASTLAND. Senator Watkins.

Senator WATKINS. How long did this investigation by the commission last?

Governor KING. Do you mean our Territorial commission or the—

Senator WATKINS. The Territorial commission.

Governor KING. The Territorial commission is a continuing organization. It keeps in touch with subversive activities all the time; screens all applicants for employment under the Territorial or county governments, and checks the loyalty procedure required for employment. So that it is no specific investigation; it is a continuous operation.

Senator WATKINS. Did this commission hold public hearings such as we are holding now?

Governor KING. I am sorry, I didn't hear, Senator.

Senator WATKINS. I say, did this commission hold public hearings such as we are now holding?

Governor KING. No. They hold executive hearings and then make a written report to the legislature at each session, giving all their findings and their reasons for them.

Senator WATKINS. You mentioned some of the jurisdiction and powers of this commission. Could you give us just a brief outline of what it was set up to accomplish?

Governor KING. It is only a body to verify whether a person can be legitimately charged or accused of being a Communist; it has no punitive powers; it doesn't bring charges against him under any law or justifies any trial, but it is empowered in reporting the verification of Communist affiliation, is justified in discharge from employment or in refusal to be employed. It is sort of a safeguard to government employment agency. That's one thing. And also to exercise general investigative powers over communism in the Territory.

Senator WATKINS. Does it file reports with the Governor and with the legislature?

Governor KING. To the Governor and to the legislature.

Senator WATKINS. Those reports are available to us?

Governor KING. They are available and become public documents after they have been submitted to the legislature.

Senator EASTLAND. Senator Welker.

Senator WELKER. Governor King, thank you very much for your testimony. I hope that by your testimony and by your appearance

here the people of these islands will realize that this is not a place which we picked out to come to investigate the infiltration of communism which might lead to the overthrow of our country by force and violence.

You, your Excellency, are mindful of the fact, and I think you so stated in your formal statement, that this committee has held hearings all over the United States, in principal cities, San Francisco, Los Angeles, New York, Philadelphia, Pittsburgh, all over the United States, and you, Governor, realize that we are not picking out your great islands to hold these hearings. Is that a fact?

Governor KING. That is quite correct, Senator. I welcomed the announcement that the committee was coming here; I thought it was a desirable thing, to determine the extent of communism; through ordinary reading of mainland news I realize that this is an investigation that goes on all over the country. And I feel very keenly that we need the help of the National Government to determine the extent and the danger of communism. And I am very close to the military services, I am a former Navy man myself; I realize that we cannot tolerate any degree of disloyalty or lack of patriotism or obedience to the first—what you call it—the first needs of the United States Government in any instance.

I am quite shocked, I am ashamed, that there should be any demonstration against this committee based on a charge that it was union busting or labor baiting or anything of that sort, because they realized from the first that you were coming here merely to find out how many Communists there were in this community. And that is an obligation that rests on your shoulders to determine.

Senator WELKER. Don't feel badly about that. This committee has been picketed in every city that we have ever appeared in.

So I want to thank you, Your Excellency, on your testimony.

Senator EASTLAND. Senator Butler.

Senator BUTLER. Thank you, Mr. Chairman.

Governor, I was very interested in your references to the Communist-Control Act of 1954. I held the hearings on that legislation and managed it on the floor of the Senate.

That act provides that action under it be taken by the Attorney General of the United States.

Have you as Governor, or has the Territorial legislature or has the Communist commission of the islands ever requested the Attorney General to take action under that act?

Governor KING. No, we have not, Senator Butler.

Senator BUTLER. Have you made your hearings and conclusions known to the Attorney General?

Governor KING. No, we have not, because the trial that occurred in 1953 was before a Federal court and the appeal is now pending in the Ninth Circuit Court of Appeals, also a Federal court, so that the United States Department of Justice was fully aware of the whole details of that trial and of the evidence that was adduced at their instance. And, of course, the report of the subcommittee of the House of Representatives is also available to the Department of Justice.

I have verbally and orally urged the Department of Justice to complete the trial of these seven people who were tried and convicted—to complete the appeal. Why it has been delayed for over

3 years, I don't know. There has been no formal request on the part of the Territory or any agency of the Territory asking the Department of Justice to certify the two unions I have in mind as Communist infiltrated. The information is already available in great detail.

Senator BUTLER. Thank you, Governor, and I want to commend you on your very, very wonderful statement.

Governor KING. Thank you.

Mr. MORRIS. Senator Butler, I would like to state for your information that Mr. Warren Littman, a representative of the Internal Security Division of the Department of Justice, has been sent here by the Attorney General to observe these hearings, and he will be available here at all times to give the Senators particular advice.

Senator EASTLAND. Senator Watkins.

Senator WATKINS. Governor, you referred to the fact that some people thought that these activities were for the purpose of breaking the union, that it was antiunion.

You know as a matter of fact, do you not, that the union leaders, American Federation of Labor, CIO, and others, have been very cooperative with this committee and with the Congress in helping us to discover Communists, wherever they might be, in their unions or elsewhere, and they have proceeded in the direction of expelling and getting rid of Communists within their ranks and even some organizations which were affiliated with them have been repudiated. That is true. The largest union in the United States, and the most powerful union. That is true, is it not?

Governor KING. Of course, it is true, Senator. And also it is particularly true that the CIO in 1949 expelled, at least they had a convention then and charged a committee to investigate whether or not the ILWU should not be expelled, and in 1950 the ILWU was expelled from the CIO.

We have in Hawaii ten or twelve thousand AFL-CIO unionists, belonging to perfectly fine, loyal, American unions, led by aggressive and even belligerent labor leaders but nevertheless patriotic Americans.

I have appealed as well as one can to the membership of the ILWU to purge themselves of their own guilty leadership, because the evidence has been before the public for some years as to the Communist character of the leaders of the ILWU, but I haven't been successful in doing it. Perhaps this committee's investigation and findings may help in that very desirable purpose.

Senator WATKINS. At this point, I would like to observe that as a member of this committee I have conducted, as chairman, a number of hearings at which labor leaders appeared and testified about certain groups that had been affiliated with them, that were then affiliated with them, that they were trying to get rid of because they were convinced that they were dominated by Communists. Now that has been a rather common experience in this committee. As I have stated, I have been with it since its organization. Time and time again we have had the help of these labor leaders, who have come in and furnished us information leading to the detection and exposure of some of these Communists and who have also taken action through their own executive committees and through their own conventions in getting rid of Communists.

So that it is not a fair statement at all that the activities of this committee or even union leaders is directed in the direction of breaking down unions or a fight against union labor.

Senator JOHNSTON. Governor King, since we have spoken of a union, is the ILWU at the present time affiliated with the CIO or the AF of L?

Governor KING. No, sir. I read in the formal statement and I will repeat at the convention the CIO held in New Jersey, I think in 1949, the ILWU and several other unions were charged with being Communist-dominated and the convention empowered some committee to hold further hearings and to expel the ILWU if the facts justified. There was a very strong indictment against the ILWU written at the time of that expulsion, which occurred 6 years ago. And, of course, the ILWU never was a member of the A. F. of L., to my knowledge.

Senator JOHNSTON. Since you have made the statement that you welcome this committee to make an investigation of this kind, to find out the facts, I would like to know just what your government has appropriated in order to make investigations somewhat similar to this?

Governor KING. Over a period of years, Senator, it has been a considerable sum. I, frankly, haven't got the figures, but each legislature since 1949 has appropriated money for the use of the Committee on Subversive Activities—the Commission on Subversive Activities.

Senator BUTLER. Governor, has there been a fight on those appropriations, within the legislature?

Governor KING. No, sir, not a fight exactly. But in the last legislature there was a cut in the amount that was requested. If that is what you are referring to.

Particularly, as I remember, we asked for \$43,000 and were given \$20,000. May I correct those figures for the record when I confer with the chairman of the commission? But the commission's funds were severely cut in the appropriation bill. I had to approve it as it was or there wouldn't have been any appropriation. So that the commission has had to function on a very limited basis; they are almost closed up now.

Senator JOHNSTON. Say it is \$20,000 or even \$25,000, you couldn't employ very many investigators and people that were competent to make investigations on that amount, could you?

Governor KING. I didn't quite get it all.

Senator JOHNSTON. I say, say it was \$25,000, that small amount wouldn't give you a sufficient amount to employ very many competent investigators in that field of activity?

Governor KING. Of course that is correct.

Even what we asked for was a very modest sum.

Senator EASTLAND. Do I understand that you think that appropriation was inadequate?

Governor KING. Inadequate?

Senator EASTLAND. Yes.

Governor KING. Yes, indeed.

Senator EASTLAND. Senator Watkins.

Senator WATKINS. Mr. Chairman, there is one other matter that I would like to clear up.

I am a member of the Interior and Insular Affairs Committee of the Senate and have served for a number of years as a member of the

Subcommittee on Territories, and for that reason I have had a very definite interest in other activities of the people here and in their aims and ambitions, and I want to make it perfectly clear that this hearing was not held for the purpose of trying to block statehood for Hawaii. I supported statehood and, until shown good reason to the contrary, I intend to keep on supporting it. But I am a member of this committee and I think we are all unanimous on this view, in fact I know we are, that this committee has stated, through the chairman, the objectives of this inquiry, and they do not in any way have anything to do with statehood, the fight for statehood.

I wanted to make that perfectly clear. If I had felt it was just directed against that, I probably would have been protesting very loud and vigorously here today.

Governor KING. Thank you very much, Senator. We in Hawaii have recognized you as a firm friend and strong supporter of statehood. I do not want any of my testimony to be taken as in opposition or in concern over statehood at all.

I feel that the people of Hawaii are fundamentally loyal Americans and overwhelmingly so, and that any Communist leadership that is once disclosed as being anti-American would be very promptly suppressed, whether by physical force or not, as may be needed. There have been 1 or 2 occasions when the leadership of the ILWU has led them into what might be considered antipublic welfare activities and those efforts have failed.

I cannot go along with General O'Daniel, whom I respect very highly, with whom I had very pleasant relations when he was the commanding general here, that there would be an uprising in the Territory led by Communists. There might be, as I have said in this written report, some economic tactics taken that would impair military activities but they would not be disclosed or understood by the workers as un-American.

We have over 200,000 people in the labor force in the Territory and the ILWU and the UPW together would have a membership of possibly twenty-seven or twenty-eight thousand. So there are a lot of working people in this Territory who are not members of the ILWU or the UPW, and there are a lot of workers in this Territory who are members of the A. F. of L. organization, besides many others who are not organized.

Senator WATKINS. I think you stated you are not fearful of a Communist uprising.

Governor KING. Not at all.

Senator JOHNSTON. Governor, since that statement by you has been made, I held the hearing when the general testified. I would like for that really to be cleared up.

Mr. MORRIS. Senator, I think the point is that General O'Daniel was the commander of the whole area here, and he was telling us about the military contingency that his military command had to take into consideration in the event of a Soviet invasion or Soviet threat or Soviet war with the United States, and he just mentioned among the military possibilities which every commander has to take into consideration that particular possibility. He did not in any way predict that there would be one, and it was certainly in the framework of a military contingency.

Governor KING. I have checked with the adjutant general of the Territory, Major General Makinney, who is a West Point graduate, retired from the United States Army, now the adjutant general of the Territory and has been for some years, and he was in command of the National Guard during those alerts, and he said they were for practice and for exercise, not in anticipation—

Senator WATKINS. They were for what?

Governor KING. For practice and for exercises, not for any real contingency.

Senator WATKINS. Uprising.

Governor KING. There is a very strong statement—going back to the expulsion of the ILWU from the CIO—the executive board committee reported these findings. May I read them; they are brief?

The testimony, both oral and documentary, at the hearings demonstrates incontrovertibly and the committee finds that the policies and activities of the International Longshoremen's and Warehousemen's Union, under the leadership of its international officers and executive board, have long been and are today directed toward the achievement of the program and the policies of the Communist Party, rather than the objectives set forth in the constitution of the CIO. The ILWU has consistently and without a single deviation followed the sharp turns and swerves of the Communist Party line and has sacrificed the economic and social interests of its membership to that line.

The defense presented by Harry Bridges and the several officers was an evasion of the real issues involved in the trial. They objected on hypertechnical grounds to the introduction of all relevant evidence, introduced extraneous and irrelevant evidence, and made unsupported and slanderous attacks upon the witnesses, and generally evidenced a hysterically evasive attitude towards the charges and towards the trial committee.

That is the finding of the CIO executive board.

Senator JOHNSTON. That answers the question.

Governor KING. Yes, sir.

Senator EASTLAND. Mr. Morris.

Mr. MORRIS. Governor King, you mention in your statement that the Territory of Hawaii has no authority to charge or punish Communists under any Territorial law. If, as a matter of fact, you should discover through your Territorial commission or through other agencies of your government, that there are Communist actions on the islands, have you any power whatever to do anything about that situation, Governor?

Governor KING. I am not able to answer that question exactly. My understanding is that we can disclose to the public the Communists or Communist activities and that's all.

Quite recently a decision of the Supreme Court seemed to have indicated that the National Government has taken over practically complete jurisdiction and control over Communist activities. There is even some question whether our loyalty procedure has not been impaired by that decision of the Supreme Court.

Mr. MORRIS. Senator Welker, do you have a question?

I have no more questions, Senator.

Senator BUTLER. Mr. Chairman.

Senator EASTLAND. Senator Butler.

Senator BUTLER. I would like to make this statement in support of the statement by the Senator from Utah, Senator Watkins.

This subcommittee is a very effective instrumentality of the Government because it has consistently refused to be used for any purpose other than to ferret out the facts bearing upon the internal security of this country. And I can assure the members of the legislature, of

the commission, and Your Excellency, and the people of the Territory of Hawaii, that there is no trace of any evidence that we are here for any other purpose. Certainly, we are not here to defeat statehood. And I have said, this committee will not permit itself to be used for any oblique attack on anything. We attack communism directly and our subcommittee can never be used for any other purpose than that.

Senator WATKINS. Governor, I want to go into another field for a moment.

You realize that there are other methods of fighting communism, other than passing laws against it and enforcing the laws. Now it is said that the fight of communism is to control the hearts and minds of the people and that an educational program in the long run is the most effective fight that can possibly be made against communism.

Now, what are your people doing here in that field, to combat communism?

Governor KING. Do you mean through governmental agencies or—

Senator WATKINS. Through their judges, through their educational institutions, through the press, and by radio, television, and whatever means of mass communication you have?

Governor KING. There are a great many uncoordinated activities. There is one strong citizen organization, called the Hawaii Residents Association, with the short name called IMUA, which in Hawaiian means forward.

Senator WATKINS. Will you get a little closer to the microphone? Probably we can hear a little better. It is difficult for me to catch just what you are saying.

Governor KING. I say there are a great many uncoordinated efforts made to combat communism and in the line of education. There is a Hawaii Residents Association, with the short name IMUA, which in Hawaiian means forward. They publish a newspaper, they have radio programs; they have a very active anti-Communist program. At one time there was a program sponsored by the Elks, in opposition to communism.

We have a very strong American Legion, Veterans of Foreign Wars, Disabled American Veterans, all very strongly anti-Communist.

The A. F. of L. group are always opposing communism and carrying on an educational program within their own organization.

So there are many individual or special efforts being made to educate the people.

Now, communism wasn't known to exist here until about 1946. Prior to that, the people that came in here and built up the ILWU organization and later came in and built up the UPW were not even identified as Communists, until after they had strongly entrenched themselves in legitimate labor activities and then staging strikes and gained the workers very special benefits. So they became very strongly entrenched in those unions.

Now they have been identified as Communists, it is very difficult to dissuade the workers from continuing to follow their lead.

I don't know what else we can do except to punish those leaders if they are Communists. If they have committed a crime against the security of the United States, then let them be charged and convicted and if found guilty, be imprisoned. Now, seven people have been convicted of the offense under the Smith Act, have been tried and convicted, but they haven't been imprisoned yet. They are still on bail.

They feel perfectly free to function both as labor leaders, if they are labor leaders, or in their other activities in the community.

That's the weakness of our efforts to contain communism or to eliminate it.

In the educational field we have, of course, a very splendid school system because, on general education, we have a university, and I am sure in those places the principles of American democracy, the pattern of American life, are held forth and explained as well as can be done in any institutional organization.

Senator WATKINS. May I ask at this point: Have you had any evidence whatsoever of Communist infiltration in your schools?

Governor KING. I would say no. There have been some professors in the University of Hawaii whose extreme leftwing liberalism might have been suspect. But I would say that we have no occasion of any identified communism in the schools except a little while ago, before my term of office, there were two teachers expelled for their Communist affiliation, and they were expelled on a school-board hearing, on which there was a great deal of publicity and in which there was a very hot contest. They had a lawyer come down from San Francisco to defend them. But the school board used its prerogative in the selection of teachers to expel these people from school board and that was all that was done at that time. Later one of them was also charged under the Smith Act and is one of the persons convicted under that charge and he is still at large.

Senator WATKINS. How many institutions of higher learning do you have in the Islands?

Governor KING. The University of Hawaii is the only institution of higher learning sponsored by the Territorial Government. There are 1 or 2 smaller colleges. One that the Mormon Church is now sponsoring at Laie and one called Jackson College. I know of no others than those.

Senator WATKINS. Has there ever been any doubt about the loyalty of those schools, the people who comprise the faculty and the boards of education and the sponsors?

Governor KING. I would say no, none. Aside from the two teachers, I think it was, who were expelled for their Communist leanings, there is nobody in the public school system, in the University of Hawaii, or in the higher private schools who have ever been suspected or accused of being Communists.

Senator WATKINS. Since these hearings will go to the entire people of the United States and to the Congress, I may ask some questions to which you people know the answers very well indeed here, but we want the answers to be made a matter of record for the benefit of all the people of the country.

Now, how about your press?

Governor KING. There is one newspaper, the Honolulu Record, that is greatly indebted to the ILWU, by its own statement. That's all I know about it. It carries the party line. Whether it could be rightly charged with being a Communist-dominated paper is pretty hard to tell. The editor was 1 of the 7 who were charged and convicted under the Smith Act.

Senator WATKINS. Is he now the editor?

Governor KING. He is still the editor.

Senator WATKINS. Since his conviction.

Senator EASTLAND. Is that a daily paper?

Governor KING. Daily paper; yes.

Senator WATKINS. Do you know anything about the size of its circulation?

Governor KING. I stand corrected, Mr. Chairman. It is a weekly paper.

Senator WATKINS. Do you know anything about its circulation?

Governor KING. No; I don't read it but it is—

Senator WATKINS. I can understand full well why you might not want to read it, but as Governor you might be under some obligation to read it and see what is going on.

Governor KING. I am one of its pet targets. I have had my attention called to some of its articles on occasion but I don't as a rule read it. It follows the Communist Party line; whether it is Communist-dominated—it has its Communist editor—or whether it should be charged as a subversive publication, I don't know. That is one of the things I had hoped this committee might determine.

Senator WATKINS. You have only mentioned one. About how many do you have in the islands?

Governor KING. Oh, my! We have in Honolulu alone 2 large dailies and 2 fairly large dailies, 4 daily newspapers. The Honolulu Advertiser, the morning daily, and the Honolulu Star-Bulletin, the afternoon daily; and we have the Hawaii Times, that used to be a Japanese language paper, still has a Japanese language section; and then the Hawaii Herald, I think it is. Isn't it the Herald? Called the Hochi-sha, a former Japanese language paper that is now bilingual; and then a great many weeklies on the other islands. There is a daily in Hilo and a semiweekly in Maui, a weekly on Kauai. We have any number of newspapers.

Senator WATKINS. Is there any doubt about any of these, other than the one you have mentioned, as to their loyalty and the support they are giving Americanism and this country?

Governor KING. Except for the Honolulu Record, I know of no paper that follows the Communist line. The ILWU gets out a little sheet of its own, for its own membership, that would wouldn't call a newspaper, and of course that is right down the Communist line, it follows the leadership of the ILWU in its articles. But it is an organizational paper rather than a newspaper for current information.

Senator WATKINS. I congratulate you on the fine record your press is making here. Now, with respect to other media of communication. What about radios and television?

Governor KING. There again, there is one radio broadcast nightly by a man who has been identified as having been a Communist, and that follows the party line right down the line. It is a broadcast by Mr. McElrath.

Senator WATKINS. What is his name?

Governor KING. Mr. McElrath.

Senator EASTLAND. I understand the reporter desires a recess.

Mr. MORRIS. Mr. Cowart, a 2 minute break? The shorthand reporter, Senator, asks a—

Senator WATKINS. I have been a judge, and I know they need a break.

Senator EASTLAND. We will take a 2-minute recess.

(A brief recess was taken.)

Senator EASTLAND. The committee will come to order.

Senator WATKINS. Mr. Chairman, may I have the last two questions read, for the benefit of myself and probably the witness?

Mr. MORRIS. Will you read the last two questions, Mr. Reporter?

(The questions and answers were read by the reporter.)

Governor KING. May I continue my answer?

Senator WATKINS. You may continue, Governor.

Governor KING. That is the only radio-TV means of communication of views or dissemination that I know of, that follows the Communist line. Sometimes they are very libelous, slanderous broadcasts. I think he accused me last night of all kinds of skullduggery. I don't listen to that either. I find the best protection in the office I hold is: don't pay any attention to the Honolulu Record or the McElrath talks. But all the others are absolutely straightforward agencies of the radio.

Senator WATKINS. There is no doubt whatever about their loyalty and the support they are giving the Government?

Governor KING. None whatsoever.

Senator WATKINS. All anti-Communist?

Governor KING. Yes. I would like to add, with reference to what we are trying to do in the line of education. The school department, the department of public instruction of the Territory—

Senator WATKINS. I didn't hear that last.

Governor KING. The department of public instruction of the Territory has distributed throughout the schools the pamphlet sent to us from Washington that explains the background of communism and the Communist menace. And we also have an active program of instruction in the university on the various political philosophies, including communism.

Senator WATKINS. Now, how about the churches?

I know that's a delicate subject, but I think it is only fair because they do have a profound influence upon the people, and they rightly should have.

Governor KING. I can think of no church in the whole Territory of Hawaii that supports any part of the Communist line. They are all straightforward religious organizations; may be a little on the liberal philosophy in some cases, but in every case all loyal American institutions.

Senator WATKINS. That's the answer I expected, and I'm sure that is true all over America.

Governor KING. We have a very small problem really. We have a problem of some very able, shrewd labor leaders who have entrenched themselves in the labor movement and who have been identified as having been Communists at one time or another, whose intemperate language and whose ordinary behavior is not very admirable or commendable, but they have won the confidence of their followers, and it is very difficult to convince their followers that these people are a menace to the United States.

Senator WATKINS. You would say, then, that the overwhelming majority of the people of this Territory are completely loyal to the United States?

Governor KING. I don't think there is any question about it. We always exceed our quota of volunteers; our draftees go into the Army with smiles, their parents come down and bid them go away, just like

any other American community. Somebody goes and gives them a pep talk. We read in the newspapers how they have excelled in the military camps. I think we have something like 60,000 veterans, in a population here of hardly 200,000 adults, of both men and women. Those veterans are mostly men, although many of them are women also. So we have a very high percentage of veterans, as I mentioned. We have a very military-minded unit—I mean community; we live close to the Army and Navy and the Marine Corps and the air force. And a large part of our gainfully employed people are employed by the United States Government.

Senator WATKINS. You have loyalty tests there, I imagine.

Governor KING. Pardon?

Senator WATKINS. I say, you have loyalty tests—

Governor KING. No question about it.

Senator WATKINS. With respect to those employees?

Governor KING. No question about it. They are thoroughly loyal; they are screened before they are employed. And they go from here to the mainland and come from the mainland here, and the various branches of the military services and the other branches of the Federal Government employ very close to 25,000 people in these islands. Now, that is 25,000 adults, mostly men but not entirely, a good many women.

The Territory employs 19,000 people. The Territory and the four counties. So there again you have a very solid body of citizens who are working for the United States Government or for the Territory of Hawaii.

Then we have a strong A. F. of L. group and we have the unorganized white collar and professional people.

The two unions that are dominated by Communist leadership are the ILWU and the UPW. The ILWU—

Senator WATKINS. What was that last one?

Governor KING. The ILWU and the UPW.

Senator WATKINS. Now, that last one is a public service or I mean a governmental group?

Governor KING. It came out here as such but they also recruit outside of the Government employees. It was originally a branch of the United Public Workers of America. The organizer was sent here from that organization in Washington, headed by a Mr. Flaxer, in Washington. The man who came out here was a Mr. Epstein. And then later they decided they didn't want to remain affiliated with the United Public Workers of America; they changed their name, reorganized, and called themselves United Public Workers, and they work very closely with the ILWU. Mr. Epstein is still their business agent or director or—he is not an officer—the actual employees elect their own officers. But Mr. Epstein, Mr. Murin, Mr. Roffman are the three men who direct the energies or the policies of the UPW. Just as Mr. Bridges, Mr. Hall, and a select group around Mr. Hall direct the activities of the ILWU.

Senator WATKINS. Now, I have one other group or groups—the racial group.

Governor KING. What?

Senator WATKINS. Racial, racial groups.

Governor KING. I would say there are absolutely no racial groups that follow any Communist line.

Senator WATKINS. None of them follows the Communist line?

Governor KING. None, none. All of our different racial groups are very patriotic, very proud of being Americans. We are having ceremonies in the Federal court and in the circuit courts every 2 weeks or so, where the older Japanese, who are now eligible for naturalization under the Walter-McCarran Act, applying for naturalization, in their old age. They have been denied that privilege heretofore. A good many Filipinos come up at the same time. They have been ineligible for naturalization for some years.

So that the remaining alien groups in these islands are going down steadily, as fast as these elderly people qualify themselves for naturalization. They are very proud of the fact that they can become Americans because their sons have served in the military service honorably and have come home with an honorable discharge. The parents want to be of the same citizenship as their children.

So I would say we have only this little bit of a group, and I don't know how many of them. I think at one time there was an estimate made there wasn't 139 Communists in the whole Territory of Hawaii.

Senator WATKINS. 139?

Governor KING. 139; I think that was an estimate made in 1950. And how many of them are still Communists, I don't know.

Some of the second flight Communists I don't believe have any idea what the Marx philosophy is.

Senator WATKINS. You made a description; I didn't get that.

Governor KING. I say some of the second flight Communists.

Senator WATKINS. Second flight?

Governor KING. Yes; I don't believe they have any idea what the Marx philosophy is. They think their ideology is Communist but their actual—they are actual Communists whose indoctrination was received in a school up in San Francisco, a labor school that teaches labor tactics and communism, and when they come back here they become business agents and leaders of various unions. And they begin to have a vested interest in their job, rather than any Communist philosophy. The key men are men like Bridges, Hall, and 5 or 6 others.

Senator WATKINS. May I ask you this question?

The men who have been publicly identified as Communists, are they native people of the Territory or are they an imported variety?

Governor KING. The Communist philosophy is an importation.

Senator WATKINS. The philosophy, but how about the men?

Governor KING. The leadership is imported.

Senator WATKINS. The leadership.

Governor KING. Bridges comes from Australia, as you know, and lives in California, where he recently signed the Republican rolls. And Hall comes here from Wisconsin.

Senator EASTLAND. Let's have order.

Senator WATKINS. What is that?

Governor KING. Hall comes here from Wisconsin.

Senator WATKINS. Wisconsin?

Governor KING. Yes; and one of his main satellites comes from California. I don't know where McElrath comes from. But they are all from the mainland; they have been here 8 years, 10 years, 12 years.

Senator WATKINS. You ought to have a rather strict immigration law probably out here.

I think that covers the scope of the questions on that, Mr. Chairman. Thank you.

Senator EASTLAND. The Chair notices that Delegate Farrington, who made a very outstanding record in the American Congress is present; that Chief Justice Rice is present; that Associate Justice Marumoto is present; and that United States attorney, Mr. Louis Blissard, is present.

We are mighty glad to have you in the audience. Please stand up.

(Mrs. Farrington, Chief Justice Rice, Justice Marumoto, and Mr. Blissard stood.)

Senator EASTLAND. Thank you.

Senator WELKER. Mr. Chairman, I have only one question to direct to the Governor.

Governor, on the interrogations propounded to you by Senator Watkins of Utah, you made an answer that in your schools in connection with instruction on political philosophies, you were using certain documents about communism. And I will ask you if it isn't a fact that in the public schools of your Territory you are using The Handbook for Americans, the Communist Party of the United States of America, What It Is and How It Works, which was prepared by this subcommittee of the United States Senate Judiciary Committee, after years of study; and we are very proud of the fact that this Territory uses that in the schools.

Governor KING. That was the book I had reference to, Senator, and it is being used here in Hawaii.

Senator EASTLAND. Any further questions, gentlemen?

We will now recess until 3:30 this afternoon.

(Whereupon, at 10:53 a. m., the subcommittee recessed.)

AFTERNOON SESSION

The subcommittee met, pursuant to the recess, at 3:30 p. m., in the Senate Chamber, Iolani Palace, Senator Arthur V. Watkins presiding.

Present: Senator Eastland (chairman), Senators Watkins, Johnston, Welker, Butler.

Also present: Robert Morris, chief counsel; Benjamin Mandel, research director.

Mr. MORRIS. The first witness scheduled this afternoon, Mr. Chairman, is Robert McElrath.

Will Mr. McElrath come forward, please? Take the witness chair, the one nearest to you.

Senator WATKINS. Raise your right hand and be sworn.

You solemnly swear that the testimony given in the matter now pending before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. McELRATH. I do.

Senator WATKINS. You may examine the witness.

TESTIMONY OF ROBERT McELRATH

Mr. MORRIS. Mr. McElrath, do you appear here with attorneys this afternoon?

Mr. McELRATH. Mr. Chairman, may I get these television lights out of my face? I would rather not be televised.

Senator WATKINS. Where is the television?

Mr. McELRATH. I think this is it, I am not certain, but I would rather not be televised.

Senator WATKINS. If you don't want to be televised, that is your right to object. And the Chair will rule that you may not be required to be televised. So please turn off the camera, at least on him. You may turn it on the committee or the audience.

Senator WELKER. The funniest looking television camera I ever saw.

Mr. MORRIS. Mr. McElrath, you appear here with attorneys today?

Mr. McELRATH. Yes; I do.

Mr. MORRIS. Counsel, will you identify yourself for the record?

Mr. ANDERSEN. My name is George R. Andersen.

Mr. SYMONDS. My name is Myer C. Symonds.

Mr. MORRIS. Senator, I would like to have it in the record at this time, the circumstances surrounding a request that has been honored by 2 people who were scheduled to be the first 2 witnesses here today—Mr. Symonds and Mrs. Bouslog. They originally had been subpoenaed to be the first witnesses to be called this afternoon. However, at their request, because they contended that they could more effectively represent their clients, we have deferred their appearance.

I would like the record to show, Mr. Symonds and Mrs. Bouslog, that that is being done at your request.

Senator WATKINS. Are the witnesses here? Will you kindly stand so you may be identified?

Mr. MORRIS. Mr. Symonds and Mrs. Bouslog, will you kindly stand?

Mr. SYMONDS. That is correct.

Mrs. BOUSLOG. That is correct.

Senator WATKINS. I didn't get your answers.

Mr. SYMONDS. That is correct.

Mrs. BOUSLOG. That is correct.

Mr. MORRIS. Senators, preliminary to the hearing here this afternoon, I would like to read into the record some of the testimony of witnesses who have testified on the subject that we are going to consider this afternoon.

Senator WATKINS. You may proceed.

Mr. MORRIS. On June 19, of this year, Victor Riesel, the labor columnist, testified as follows:

He was asked the question:

Based on your experience which you have just set forth, Mr. Riesel, I wonder if you would tell us how Communists operate on various waterfronts, New York, San Francisco, Honolulu, and throughout the United States?

Mr. Riesel answered:

I was especially interested in Hawaii, where with some 1,300 waterfront workers, the International Longshoremen's and Warehousemen's Union is able to shut off all entrance and egress to and from the islands, except, of course, by air. I was very much interested in the fact that this union, which is especially a waterfront union, was also deep in the agricultural economy of the islands.

I asked :

When you say this union, you mean the International ILWU?

And Mr. Riesel said "Yes."

Question :

Now, by controlling the 1,300 waterfront workers, they are able to block the ports?

Riesel answered :

Not only are able but were able and did this sometime ago to the point where it would have taken the Army or the Navy to really move stuff in and out. I was told that in some instances there was so little feed for cattle that the cattle died off and had to be slaughtered; that food supplies ran low; the whole economy of the Islands was shaken. To me this was vital because the Hawaiian Islands, in addition to being a strategic outpost, as witnessed in the tragedy of Pearl Harbor, are the second most important military, Navy, Air, Marine defense outposts, second only to the Pentagon. From the Hawaiian Islands are the commands, reaching to the Asian shores, down to New Zealand, and there you have your Far Eastern Central Command under Admiral Stump.

And then I asked :

And you say that port, which is as important as you say it is, now under the control of Harry Bridges?

Mr. RIESEL. It is absolutely so. There is no doubt about it. And from reports, he has developed considerable political influence and has, of course, a union reaching into the agricultural parts, the sugar and pineapple fields.

Question :

What do you mean by that, Mr. Riesel?

Mr. RIESEL. He and his union control all the workers of the great plantations, which he has also shut down from time to time and thoroughly hurt the economy. At any given moment, should he decide to call a strike, the structure of the union is such that he has the power, through his lieutenant Jack Hall, to not only shut down the ports but to close down the entire economy by calling an agricultural strike on the big plantations of the Islands. Bridges has not been satisfied with just controlling the ports and the agricultural economy of the Islands but has begun to take in government workers into his union of waterfront and longshoremen. It is now quite probable that he will have the same influence in government offices that he has amongst the waterfront and plantation rank and file.

And then I asked :

Now, does the Bridges lifeline to Honolulu go from San Francisco?

And he said, "Yes."

Now, in furtherance of that, Senator Watkins, we subpoenaed Mr. Jeff Kibre. Mr. Kibre is the Washington representative of the ILWU. He was called to testify on June 21, of this year, and did appear before Senator Eastland and Senator Jenner.

I asked Mr. Kibre the question :

Now, Mr. Kibre, are you now a member of the Communist Party?

Mr. Kibre said :

I will decline to answer that question on the basis of my privilege under the fifth amendment, not to be a witness against myself.

I then asked him if he had used the alias Barry Wood, in connection with Communist Party activities, and again he refused to answer, claiming his privilege under the fifth amendment.

Finally, Senators, we then called Irving Velson.

Senator WATKINS. Who?

Mr. MORRIS. Irving Velson. V-e-l-s-o-n, who is the ILWU top representative on the east coast. And we asked him if he presently was

a member of the Communist Party, and he refused to say, claiming privilege. We asked him if he had used various aliases; he claimed privilege again; and we asked him if he had worked as an assistant to J. Peters, who, according to our sworn testimony, was liaison between the underground section of the Communist Party and the Soviet secret police and he invoked the privilege on that. And we asked him if the testimony about Mr. Stevens, or J. Peters, alias J. Peters, with Velson acting as assistant, was true, and he again claimed privilege under the fifth amendment.

So that, Senators, constitutes some of the preliminary evidence that led to our coming here to these islands.

Senator WATKINS. It will also clarify the record.

Have the attorneys representing the witness been counseled as to how far they can participate in the hearing?

Mr. MORRIS. Not yet; no, Senator.

Senator WATKINS. Under the practice of the committee in holding this type of hearing, investigation hearing, counsel are permitted to sit with the witness, but they are not permitted to talk to him unless he asks for advice on legal matters. They cannot suggest answers or coach him in any way except on the matter of law, after he has requested audibly the advice from his counsel.

This is not a trial, and the precautions which are given in a trial for an attorney, of course, to object, and all that sort of thing, do not lie in a procedure of this kind.

I merely call that to counsel's attention. Most of the attorneys in the East have had experience before committees and accept it readily, and I wanted to advise you so that you would know how the committee conducts these hearings.

Will you proceed, Mr. Morris?

Mr. MORRIS. Will you give your full name and address to the reporter?

Mr. McELRATH. My name is Robert McElrath, spelled M-c-E-l-r-a-t-h.

Mr. MORRIS. Where do you reside, Mr. McElrath?

Mr. McELRATH. I live at 2407 St. Louis Drive, in Honolulu.

Mr. MORRIS. Now what is your business or profession?

Mr. McELRATH. I decline to answer the question on the ground it may tend to incriminate me.

Mr. MORRIS. You mean you will not tell this committee what your public business or occupation is?

Mr. McELRATH. I have answered the question.

Mr. MORRIS. Mr. Chairman, will you rule on that claim?

Senator WATKINS. That is a very close question. I think you should answer that question. I don't see how conducting your business in public, and how it could possibly incriminate you to tell the committee what your business is. Therefore, you are directed and ordered to answer the question. The Chair rules that you do not have that protection for this particular question under the fifth amendment.

Mr. McELRATH. Federal Judge McLaughlin once told me that a man who represents himself in a legal proceeding has a fool for a client. So I am down here with attorneys, and I have discussed this matter with counsel, and I decline to answer because of the advice of counsel.

Senator WATKINS. You decline—

Mr. McELRATH. I am not an attorney.

Senator WATKINS. On the ground that you have stated?

Mr. McELRATH. Yes. The fifth amendment.

Senator WATKINS. You have a right to claim the protection. I have ordered you to answer, and we will let the record stand as it is, with your refusal. You will have to take whatever consequences may possibly grow out of your refusal.

Mr. MORRIS. Senator, in view of that answer, we have available Mr. Benjamin Mandel, who is our research director, and he has a document here from the Labor Department which purports to give the title that Mr. McElrath had in very recent days. So, inasmuch as this is the best evidence we can produce at this particular time, although I think, Senator, it is pretty well known that he is the public-relations director of the union and broadcasts as such almost every night on the radio here. But still, Senator, may Mr. Mandel stand and be sworn at this time?

Senator WATKINS. You do solemnly swear the testimony you will give in the matter now before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MANDEL. I do.

Senator WATKINS. You may proceed.

TESTIMONY OF BENJAMIN MANDEL

Mr. MORRIS. Will you give your name and address to the reporter, Mr. Mandel?

Mr. MANDEL. Benjamin Mandel, 3420 17th Street NW., Washington, D. C.

Mr. MORRIS. You are the research director of the Internal Security Subcommittee; are you not, Mr. Mandel?

Mr. MANDEL. I am.

Mr. MORRIS. Do you have any official Government document that would indicate, in recent days, the official title of the witness on the stand here today?

Mr. MANDEL. I have before me the directory of labor organizations in the Territory of Hawaii, revised September 1956, published by the department of labor and industrial relations, bureau of research and statistics, Honolulu, and on page 23 of this document, under the heading of "International Longshoremen's and Warehousemen's Union," is listed as Territorial representative and public-relations director, Robert McElrath.

TESTIMONY OF ROBERT McELRATH—Resumed

Mr. MORRIS. Now, is that listing correct, Mr. McElrath?

Mr. McELRATH. I decline to answer the question on the grounds heretofore given.

Mr. MORRIS. Mr. McElrath, are you a Communist?

Mr. McELRATH. Same answer.

Mr. MORRIS. That is, you are claiming your privilege?

Mr. McELRATH. I am.

Mr. MORRIS. Under the fifth amendment?

Mr. McELRATH. Yes, sir; I am.

Mr. MORRIS. Now have you attended a Communist Party training school on the mainland?

Mr. McELRATH. Same answer.

Mr. MORRIS. Have you consistently advocated here in Honolulu and in the Hawaiian Islands that the Communist Party should stay underground?

(The witness consults with his counsel.)

Mr. McELRATH. I don't understand the question.

Mr. MORRIS. Have you at Communist Party meetings taken the position that the Communist Party of Hawaii should remain an underground organization and not come out into the open?

Mr. McELRATH. I decline to answer the question on the grounds heretofore given.

Mr. MORRIS. Have Communist parties been held at your home?

Mr. McELRATH. Same answer.

Mr. MORRIS. Have Communist meetings, that should read.

Have Communist meetings been held at your home?

Mr. McELRATH. Will you repeat the question? I have already answered.

Mr. MORRIS. I will repeat the question. Have Communist meetings been held at your home?

Mr. McELRATH. I decline to answer on the grounds heretofore given.

Mr. MORRIS. Now, have you broadcast here to the people of Honolulu that the Communist threat to the islands is virtually nonexistent?

(The witness consults with his counsel.)

Mr. McELRATH. Same answer as heretofore given.

Mr. MORRIS. Were you, while you so broadcast to the people of the islands, at the time of these broadcasts, a secret member of the Communist Party?

(The witness consults with his counsel.)

Mr. McELRATH. "These broadcasts"; are you talking about any particular broadcast or any particular period of time?

Mr. MORRIS. The broadcasts I asked you about in the previous question which you did not answer.

Mr. McELRATH. I decline to answer on the same ground.

Mr. MORRIS. When did you last see Charles Fujimoto, who has been described and whom the committee has learned has been the chairman of the Communist Party of Hawaii; when did you last see Charles Fujimoto?

Mr. McELRATH. The same answer as heretofore given.

Mr. MORRIS. That is, you claim a privilege under the fifth amendment?

Mr. McELRATH. Yes, sir.

Mr. MORRIS. Have you attended national conventions of the Communist Party on the mainland?

Mr. McELRATH. The same answer as heretofore given.

Mr. MORRIS. As a matter of fact, you did attend a national convention of the Communist Party in New York, did you not, Mr. McElrath?

(The witness consults with his counsel.)

Mr. McELRATH. The same answer as heretofore given.

Mr. MORRIS. Now, do you do general propaganda, union propaganda for the ILWU?

Mr. McELRATH. The same answer as heretofore given.

Mr. MORRIS. Do you make political contacts for the ILWU?

Mr. McELRATH. The same answer as heretofore given.

Mr. MORRIS. Are you the editor of the ILWU Reporter?

(The witness consults with his counsel.)

Mr. McELRATH. The same answer as heretofore given.

Senator WATKINS. Are you acquainted with that paper?

Mr. McELRATH. The same answer, sir, as heretofore given.

Senator WATKINS. Not even acquainted with it.

Mr. MORRIS. Now, can you recall that on March 1, 1955, you quoted from the report of the Territorial Commission on Subversion here in Honolulu?

Mr. McELRATH. I can't hear you, sir.

Mr. MORRIS. Can you recall that, on March 1, 1955, you quoted from the report of the Territorial Commission on Subversion here in the islands; can you recall that?

Mr. McELRATH. The same answer as heretofore given.

Mr. MORRIS. Did you at that time quote from that report prior to the time that that report was actually issued?

Mr. McELRATH. The same answer as heretofore given.

Mr. MORRIS. That is, you claim your privilege under the fifth amendment?

Mr. McELRATH. Yes, sir. And I hope it is understood that every time I give that answer it means the fifth amendment.

Mr. MORRIS. I understand. I just want the record to be unmistakable.

Mr. McElrath, did you in fact surreptitiously receive an advance copy of that particular report?

(The witness consults with his counsel.)

Mr. McELRATH. I should like to understand your understanding of "surreptitiously" there.

Mr. MORRIS. Well, did you—

Mr. McELRATH. I believe I understand what you mean but I would like to know for certain.

Mr. MORRIS. Well, did you receive in advance a copy of the report?

Mr. McELRATH. I decline to answer the question on the grounds heretofore given.

Mr. MORRIS. Who gave you that advance copy of the report?

Mr. McELRATH. I decline to answer on the grounds heretofore given.

Mr. MORRIS. Now, in your broadcast of February 7, 1953, did you, on your radio program, state the following, and I am now quoting:

Into our possession has come hundreds of dossiers collected by official Government investigating agencies.

Did you make that statement on your February 7, 1953, broadcast?

Mr. McELRATH. My memory isn't a filing cabinet, but I am going to decline to answer the question on the grounds heretofore given.

Mr. MORRIS. Did you in fact read from the files of these reports, which you described as dossiers collected from official Government investigating agencies?

Mr. McELRATH. Same answer as heretofore given.

Mr. MORRIS. Where did you get these reports, Mr. McElrath?

Mr. McELRATH. The same answer.

Mr. MORRIS. How did you come into possession of official Government documents?

(The witness consults with his counsel.)

Mr. McELRATH. The same answer.

Mr. MORRIS. In fact, in connection with these particular reports, you read a security report referring to yourself and your wife, did you not, Mr. McElrath? I give you a date. February 9, 1953.

Mr. McELRATH. What do you mean by "security report"?

Mr. MORRIS. Well, I am using your own description here.

Into our possession has come hundreds of dossiers collected by official Government investigating agencies.

And then you read a file referring to yourself and your wife and others. That second part of it was on February 9, 1953.

Mr. McELRATH. I decline to answer the question on the grounds heretofore given.

Mr. MORRIS. Do you broadcast 5 nights a week for 15 minutes, from 6:45 to 7 p. m., on station KHON?

Senator WATKINS. Is that in Honolulu?

Mr. MORRIS. That's in Honolulu, Senator.

Mr. McELRATH. Same answer.

Mr. MORRIS. Have you been in the past a member of the Manoa Club branch of the Communist Party?

(The witness consults with his counsel.)

Mr. McELRATH. I decline to answer the question on the grounds heretofore given.

Mr. MORRIS. Have you held Communist Party book No. 74521?

Mr. McELRATH. The same reply.

Senator WATKINS. What do you mean by "Communist Party book," Counsel?

Mr. MORRIS. Senator, our evidence indicates that in the past the Communist Party did issue Communist Party membership books, and we have been told that the witness here today was the holder of Communist Party book No. 74521 in the past. And I asked him whether our information is correct. I think he has refused to answer that.

Senator JOHNSTON. Mr. McElrath, I noticed you wrote down the number just now, when he gave you the number of the book. Why did you do that? Was that the reason—you are going to look to see if that was the right number of the book? Of your book?

Mr. McELRATH. I would probably forget it, sir.

Senator JOHNSTON. You did that in order to look at your book, isn't that true, to see if it is that number?

Mr. McELRATH (laughing). No, sir; that is not the reason I wrote it down.

Senator JOHNSTON. What was the reason?

Mr. McELRATH. I wrote it down because I thought I would forget it.

Mr. MORRIS. Mr. McElrath, do you recall the 4-day shutdown that occurred in the ILWU at the time that Jack Hall was being tried here in the year 1953? I am asking you if you recall it, as a matter of public record.

(The witness consults with his counsel.)

Mr. McELRATH. I decline to answer the question on the grounds heretofore given.

Mr. MORRIS. I ask what your role was in that particular walkout.

Mr. McELRATH. I decline to answer the question on the grounds heretofore given.

Mr. MORRIS. Senators, I have an abundance of questions here that I would like to ask this witness, but I think in view of the responses he has given to date that any further inquiry would be unavailing, so far as this particular witness is concerned.

Senator WATKINS. Any questions by members of the committee? The witness may step aside.

Senator WELKER. Just a moment, Senator.

Senator WATKINS. Senator Welker.

Senator WELKER. Mr. Witness, do you work at all?

Mr. McELRATH. I decline to answer that question on the grounds heretofore given.

Senator WELKER. Are you a man of family?

Mr. McELRATH. Yes; I am.

Senator WELKER. How do you support that family?

Mr. McELRATH. Same answer heretofore given.

Senator WELKER. You want to take the fifth amendment on whether or not you work for a living. Is that right?

Mr. McELRATH. I have, sir.

Senator WELKER. You have taken the fifth amendment?

Mr. McELRATH. The fifth amendment; yes.

Senator WATKINS. Any other questions?

Senator JOHNSTON. Do you believe in the American way of life?

Mr. McELRATH. Definitely.

Senator JOHNSTON. Definitely. Don't you think, then, that it would benefit the American way of life if you would answer these questions that have been asked you here today?

Mr. McELRATH. As I said earlier, sir, a man who represents himself in court without an attorney has a fool for a client. I am taking the advice of my lawyers.

Senator WATKINS. Let me ask you this question. Do you really honestly believe to answer these questions would incriminate you?

Mr. McELRATH. Very definitely.

Senator WATKINS. That is your belief, that they might incriminate you?

Mr. McELRATH. My lawyers so advise.

Senator WATKINS. Now, is that your belief? Your lawyer wouldn't have a belief on that question. It has to be your own belief. You are man claiming the protection, not the lawyers.

Mr. McELRATH. All right. I think a person would be a fool to come into court with a lawyer and not take his advice.

Senator WATKINS. What I am trying to find out is: Do you honestly believe and sincerely believe that if you answer truthfully these questions that have been asked, you might incriminate yourself?

Mr. McELRATH. Yes, sir. Otherwise, I wouldn't answer them that way.

Senator WATKINS. All right. I just wanted to know whether it is your belief or your lawyer's opinion that it might incriminate you.

Mr. McELRATH. I am not going to argue the law with lawyers.

Senator WATKINS. All right.

Mr. McELRATH. I'm not one.

Senator WATKINS. The record will show what your answer was.

Senator WELKER. If you're not a lawyer, what are you then?

Mr. McELRATH. The same answer as heretofore given to you, Senator.

Senator WATKINS. Nothing further. The witness may step aside.

Mr. MORRIS. The next witness, Senator, is Joseph Kealalio.

Senator WATKINS. The witness will please come forward. Raise your right hand. Raise your right hand and be sworn. Do you solemnly swear that the testimony you give in the matter now pending before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KEALALIO. I do.

TESTIMONY OF JOSEPH KEALALIO

Mr. MORRIS. Will you give your name and address to the court reporter?

Mr. KEALALIO. I would like the same privilege as the witness before me, please, regarding the lights.

Senator WATKINS. The television people will please not train the instrument on the witness; he objects. He has a right to object.

Mr. MORRIS. Will you give your name and address to the reporter?

Mr. KEALALIO. Joseph Kealalio. K-e-a-l-a-l-i-o.

Mr. MORRIS. That is spelled "K-e-a-l-a-l-i-o"?

Mr. KEALALIO. Yes.

Mr. MORRIS. And where do you reside?

Mr. KEALALIO. 3922 Nioi Place.

Senator WATKINS. Will you speak a little louder, please? It is difficult for me to hear your answers.

Mr. KEALALIO. 3922 Nioi Place. N-i-o-i.

Mr. MORRIS. I think you told us in executive session that you also are known as Joseph Blurr, and you use that name because of the difficult pronunciation of your own name, is that right?

Mr. KEALALIO. Yes.

Mr. MORRIS. Now, will you tell us your business or profession?

(The witness consults with his counsel.)

Mr. KEALALIO. I am relying on the fifth amendment, sir.

Mr. MORRIS. What do you mean by that? Do you refuse to answer that question?

Mr. KEALALIO. Yes.

Mr. MORRIS. And is your refusal to answer that question based on your claim of privilege under the fifth amendment to the Constitution of the United States?

Mr. KEALALIO. Yes, sir.

Senator WATKINS. What was the answer?

Mr. KEALALIO. Yes, sir.

Mr. MORRIS. Mr. Chairman, in view of the witness' response, I ask that Mr. Mandel be again asked to identify the occupation or the particular position that this witness holds.

Senator WATKINS. Mr. Mandel may proceed.

Mr. MANDEL. I read again from the document referred to as a Directory of Labor Organizations in the Territory of Hawaii, on page 23, under International Longshoremen's and Warehousemen's Union, we find among the international representatives listed Joseph Kealalio.

Mr. MORRIS. Mr. Kealalio, have you—are you or have you in the past acted as a stand-in for J. R. Robinson, national vice president of the ILWU?

Mr. KEALALIO. Same answer, sir; I decline to answer.

Mr. MORRIS. Was that assignment given to you in the event that Mr. Robinson would have to give up his position for one reason or another?

Mr. KEALALIO. Same answer, sir.

Mr. MORRIS. Do you know whether or not the three top officers of the ILWU nationally, namely, Bridges, Robinson, and Schmidt, each had a stand-in selected for them in the event of all contingencies?

Mr. KEALALIO. Same answer, sir.

Mr. MORRIS. What is the answer?

Mr. KEALALIO. I decline—I rely on the fifth amendment of the Constitution, sir.

Mr. MORRIS. And you claim the privilege?

Mr. KEALALIO. Yes.

Mr. MORRIS. That you would rather not be a witness against yourself?

Mr. KEALALIO. Yes, sir.

Mr. MORRIS. Because it would possibly incriminate you?

Mr. KEALALIO. Yes, sir.

Mr. MORRIS. Now, do you recall the walkout that took place in 1953? By the way, Senators, that was during the Korean war.

Do you remember a walkout on the part of the ILWU which lasted 4 days here in Honolulu?

(The witness consults with his counsel.)

Mr. KEALALIO. Same answer.

Mr. MORRIS. What was your role in that particular walkout?

Mr. KEALALIO. Same answer.

Mr. MORRIS. Are you presently a Communist?

(The witness consults with his counsel.)

Mr. KEALALIO. I didn't get that.

Mr. MORRIS. Are you presently a Communist?

Mr. KEALALIO. Same answer, sir.

Mr. MORRIS. Mr. Chairman, the committee has learned of a meeting that took place at 5204 Ani Street in Honolulu. A-n-i, that is. In Honolulu, here last Saturday. I would like to ask the witness if he was present at the home of Henry Epstein, 5204 Ani Street, last Saturday.

(The witness consults with his counsel.)

Mr. KEALALIO. Same answer.

Mr. MORRIS. You will not tell us whether or not you were present at the home of Henry Epstein, 5204 Ani Street, last Saturday evening?

Mr. KEALALIO. Same answer, sir.

Mr. MORRIS. Charles Fujimoto, who has been—who we know has been chairman of the Communist Party of the islands, was present at that meeting; was he not?

Mr. KEALALIO. Same answer, sir.

Mr. MORRIS. Was not his wife, Mrs. Charles Fujimoto, also present at that meeting last Saturday night?

Mr. KEALALIO. Same answer.

Mr. MORRIS. Was Henry B. Epstein present at that meeting last Saturday night?

Mr. KEALALIO. Same answer.

Mr. MORRIS. Have you been the master of ceremonies at the testimonial dinner for the attorneys defending the Hawaiian "seven" held in June 1953?

Mr. KEALALIO. Same answer, sir.

Mr. MORRIS. Now, did you return from San Francisco on March 4, 1954, from a business trip, as head of the Hawaiian branch of the ILWU stewards department, in company with Harry Bridges and Louis Goldblatt?

(The witness consults with his counsel.)

Mr. KEALALIO. Same answer, sir.

Mr. MORRIS. Did you accompany Richard Gladstein and talk with a juror after the verdict in the Smith Act trial?

Mr. KEALALIO. Same answer, sir.

Mr. MORRIS. Have Communist Party meetings been held in your home?

Mr. KEALALIO. Same answer.

Mr. MORRIS. Senators, in view of the witness' response, I think it would be unavailing for me to ask about this additional evidence we have here in our files, and I therefore have no further questions of this particular witness.

Senator WATKINS. For the purpose of the record, I think the matter of the attorneys should be cleared up. I don't recall that the record was made clear that the same gentlemen who appeared as counsel for the preceding witness also appeared for the present witness.

Mr. ANDERSEN. The record may so show.

Senator WATKINS. You may step aside.

Mr. MORRIS. The next witness is Ernest Arena.

Senator WATKINS. Raise your right hand, Mr. Arena, and be sworn. Do you solemnly swear that the testimony you will give in the matter now pending before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ARENA. I do. Mr. Chairman, I would like to make the same request on the TV camera, please.

Senator WATKINS. The order will stand. The witness is not to be televised during the hearing. You may proceed.

TESTIMONY OF ERNEST ARENA

Mr. MORRIS. Will you give your name and address to the reporter?

Mr. ARENA. Ernest Arena—A-r-e-n-a—3911 Keanu Street.

Mr. MORRIS. What is your business or profession?

Mr. ARENA. I will require advice of my counsel.

(The witness consults with his counsel.)

Mr. ARENA. I rely on the fifth amendment.

Mr. MORRIS. In other words, you refuse to answer the question, claiming your privilege under the fifth amendment to the Constitution, which says that you shall not be required to testify against yourself or to give testimony that might possibly incriminate you?

Mr. ARENA. That's correct.

Mr. MORRIS. And in view of the response, Mr. Chairman, may we again call on Mr. Benjamin Mandel?

Senator WATKINS. You may do so.

Mr. MORRIS. Mr. Mandel, is the listing for Mr. Ernest Arena in the reference book you have previously referred to?

Mr. MANDEL. Again referring to the Directory of Labor Organizations of the Territory of Hawaii, on page 24, under the International Longshoremen's and Warehousemen's Union, Oahu Division, is listed Ernest Arena as business agent.

Mr. MORRIS. As business agent of the Oahu division of the local. Is that right, Mr. Mandel?

Mr. MANDEL. It is just listed under the Oahu division.

Mr. MORRIS. As the business agent?

Mr. MANDEL. Yes. ILWU, local 142.

Mr. MORRIS. All right. Mr. Arena, is that listing accurate?

Mr. ARENA. Same answer.

Mr. MORRIS. That is, refusal to answer under claim of privilege?

Mr. ARENA. Yes.

Mr. MORRIS. Can you recall a walkout engaged in by the ILWU in 1953, at the time of the Jack Hall trial, Mr. Arena?

Mr. ARENA. The same answer.

Mr. MORRIS. Which is that you refuse to answer?

Mr. ARENA. Yes.

Mr. MORRIS. What was your role in that particular walkout?

Mr. ARENA. I would like to correct that. I refuse to answer on the ground that it may tend to incriminate me.

Mr. MORRIS. On the grounds of what?

Mr. ARENA. Using the 5th amendment.

Mr. MORRIS. Have you been a member of the Kaimuki group of the Communist Party?

Mr. ARENA. Same answer.

Mr. MORRIS. In 1950 were you the president of local 150 of the ILWU?

Mr. ARENA. Same answer.

Mr. MORRIS. When did you last see Charles Fujimoto?

Mr. ARENA. Same answer.

Mr. MORRIS. Do you know Charles Fujimoto?

Mr. ARENA. Same answer.

Mr. MORRIS. Have you attended Communist Party meetings at the home of Jack Hall?

Mr. ARENA. Same answer.

Mr. MORRIS. Do you know a Communist Party organizer named Archie Brown?

Mr. ARENA. Same answer.

Mr. MORRIS. Did you know that Archie Brown was trade union director of the Communist Party, district 13, which is California?

Mr. ARENA. Same answer.

Mr. MORRIS. Did you attend Communist Party meetings at the home of Jeanetta Nakama?

Mr. ARENA. Same answer.

Mr. MORRIS. Did you deliver Communist Party literature for the Kakuku sugar group?

Mr. ARENA. The what?

Mr. MORRIS. K-a-k-u-k-u. Kakuku sugar group.

Mr. ARENA. Same answer.

Mr. MORRIS. Mr. Chairman, I have other information and evidence here. I would like to ask the witness, however, if he is presently a Communist?

Mr. ARENA. Same answer.

Mr. MORRIS. Are you a member of the Communist Party?

Mr. ARENA. Same answer.

Mr. MORRIS. Are you now a member of or an adherent to the international Communist movement, either as a former member of the Communist Party or otherwise?

Mr. ARENA. Same answer.

Mr. MORRIS. Are you now under discipline of the Communist Party?

Mr. ARENA. Same answer.

Mr. MORRIS. I have no more questions, Senator.

Senator WATKINS. Any questions from members of the committee?

Senator JOHNSTON. No questions.

Senator WATKINS. You may step aside. Call your next witness.

Mr. MORRIS. Mr. Miyagi. Mr. Newton Miyagi.

Mr. MIYAGI. Coming.

Senator WATKINS. Raise your right hand and be sworn.

Do you solemnly swear the testimony you give in the matter now pending before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MIYAGI. I do.

TESTIMONY OF NEWTON KUNIO MIYAGI

Mr. MORRIS. Give your name and address to the official reporter.

Mr. MIYAGI. I would like to request no TV while I am on.

Senator WATKINS. Same order with respect to television will be in effect as in the preceding testimony.

Mr. MORRIS. Give your name and address to the official reporter.

Mr. MIYAGI. My name is Newton Kunio Miyagi and I reside at 94-450 Kamakahi Street, Waipahu, Oahu.

Mr. MORRIS. What is your business or profession?

(The witness consults with his counsel.)

Mr. MIYAGI. I decline to answer that based on the fifth amendment of the United States Constitution.

Mr. MORRIS. Mr. Chairman, in view of the witness' response, may Mr. Mandel be recalled?

Senator WATKINS. He may.

Mr. MANDEL. Reading again from the Directory of Labor Organizations in the Territory of Hawaii, on page 23 we find under ILWU, Local 142, Newton Miyagi, secretary-treasurer.

Mr. MORRIS. Are you the secretary-treasurer of local 142, Mr. Miyagi?

(The witness consults with his counsel.)

Mr. MIYAGI. I refuse to answer on the same ground.

Senator WELKER. I didn't hear the answer.

Senator WATKINS. At this moment the Chair instructs the witnesses as I have directed them to stand aside to understand that they are not released from the subpoena. I merely direct that they are excused from testifying at the moment. There has been no order issued that they are discharged from the subpoena. I hope that the witnesses will be available in case we want them further.

Mr. MORRIS. Are you now a Communist, Mr. Miyagi?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Are you now a member of or an adherent to the international Communist movement, either as a former member of the Communist Party or otherwise?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Are you now under discipline of the Communist Party?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Have you attended Communist meetings at the home of Jack Hall?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Are you now the treasurer of the ILWU Memorial Association?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did you write a letter that appeared in the daily Peoples World of August 9, 1944, bearing the headline "From Hawaii, A Token Gift to the People's World Drive"?

This article reads:

SAN FRANCISCO, August 8.—A significant note of greetings and encouragement for the success of the 1954 Daily People's World fund drive was received this weekend from the International Longshoremen's and Warehousemen's Union, Local 142, in Hawaii. Written on the official local 142 stationery, the letter to the executive editor, Al Richman, said:

"DEAR BROTHER RICHMAN: Enclosed is a check in the amount of \$25, which comprises our token contribution to your 1954 fund raising drive. We again are in support of your fighting paper as in the past, and we hope that you will be able to get over in your fund raising drive."

It was signed "Fraternally yours, Newton Miyagi, secretary-treasurer."

Now, did you write that letter?

Mr. MIYAGI. I refuse to answer on the same ground.

Mr. MORRIS. Were you a Communist when you wrote that letter?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did you know that the People's Daily World had been charged as a Communist newspaper?

(The witness consults with his counsel.)

Mr. MIYAGI. Before answering that question, could I say that when I say "The same answer," that is on the fifth amendment, so there won't be any misunderstanding? Is that understood?

Mr. MORRIS. You may say that, Mr. Miyagi.

Senator WATKINS. I understand you claim the substantial right of refusing to testify because you might incriminate yourself, and you do that under the fifth amendment to the Constitution of the United States.

Mr. MIYAGI. That is correct.

Senator WATKINS. And that has been what you meant by each of these answers when you said "The same answer"?

Mr. MIYAGI. That is correct.

Senator WATKINS. The record will so show.

Mr. MORRIS. Do you know that the People's Daily World is today a Communist paper, Mr. Miyagi?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Mr. Mandel, do we have an official listing of the People's Daily World as a Communist publication?

Mr. MANDEL. The California Committee on Un-American Activities in its report of 1948 states:

The Daily People's World, the west coast mouthpiece of the Communist Party, published by the Pacific Publishing Foundation, Inc., in San Francisco.

Mr. MORRIS. Mr. Miyagi, in July 1953, were you a member of a group called the Committee for Justice?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did you as a member of the Committee for Justice distribute a Soviet film distributed by Artkino, entitled "Peace Will Win"?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did you cause to be distributed the Second World Peace Conference at Warsaw, a film, and some educational material about the second world peace conference at Warsaw during that same approximate period, July 1953?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did you make an effort to have publications of Artkino and other publications of the Committee for Justice put into the schools of Honolulu?

Mr. MIYAGI. The same answer.

Mr. MORRIS. Did you try to make these available to the plantations? (The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Mr. MORRIS. Presumably, Senator Watkins, to be available for workers at the plantations.

Is that a fact, Mr. Miyagi?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did you give a testimonial speech for Jack Hall on March 23, 1952?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Have you attended Communist Party meetings at the home of Jack Kimoto in anticipation of a sugar strike?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did you attend an executive board meeting at Ewa Beach, a Communist executive board meeting, at Ewa Beach, at any time?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Mr. Chairman, we have received a report on Union Insurance Service, Ltd. This Union Insurance Service, Ltd., according to our information, is a Hawaiian corporation wholly owned by the ILWU and the United Public Workers; that it was chartered on September 20, 1955, to act as an insurance agent and adjuster for all types of insurance and endorsed by the ILWU convention in Hilo during the same month; capitalized at \$5,000, the corporation acts as a subagent, with headquarters in the ILWU Building; its general agent is Hawaii Insurance Consultants, Ltd.; its secretary-treasurer Paul G. Pinsky.

Do you know a man named Paul G. Pinsky?

Mr. MIYAGI. Same answer.

Mr. MORRIS. That is, you refuse to say whether you know Paul Pinsky? Now, are you the secretary-treasurer of the Union Insurance Service, Ltd?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Can you tell us anything about the operation of the Union Insurance Service, Ltd?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Do you know Charles Fujimoto?

Mr. MIYAGI. Same answer.

Mr. MORRIS. When did you last see Charles Fujimoto?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did you attend a meeting at the home of Mr. Epstein last Saturday night?

(The witness consults his counsel.)

Mr. MIYAGI. I refuse to answer on the same ground.

Senator WATKINS. Is Mr. Epstein a longshoreman?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Now, would you tell us what insurance company has exclusive control over all types of your union indemnity requirements?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Would you give us the names and the operators of the Union Insurance Service?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Does any of the money that goes to that service go back to individual officers in that particular service?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Does the union require that its members deal with the Hawaiian Insurance Consultants?

Mr. MIYAGI. Same answer.

Mr. MORRIS. What other insurance concern is permitted to do business with your union and its members?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Are you paid a salary as secretary-treasurer of the Union Insurance Service, Ltd.?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Mr. Chairman, in view of the witness' responses, I have no more questions of this particular witness.

Senator WATKINS. Senator Johnston.

Senator JOHNSTON. Are you an American?

(The witness consults with his counsel.)

Mr. MIYAGI. Definitely, yes. I am an American citizen.

Senator JOHNSTON. Are you a Communist?

Mr. MIYAGI. I refuse to answer on the same ground.

Senator JOHNSTON. Why can you answer one question and not answer the other?

(The witness consults with his counsel.)

Mr. MIYAGI. The fifth amendment to the Constitution of the United States gives me that privilege for prevention of self-incrimination.

Senator JOHNSTON. Then you believe that you would incriminate yourself if you said that you were not a Communist; isn't that true?

Mr. MIYAGI. I refuse to answer on the same grounds.

Senator JOHNSTON. That's the reason you have to give when you cloak yourself with the fifth amendment. You believe that it would incriminate you. Is that true? You believe it would incriminate you if you answered that question, isn't that true?

(The witness consults with his counsel.)

Mr. MIYAGI. As I stated previously, the fifth amendment to the Constitution protects me to say anything against my own self.

Senator JOHNSTON. Do you know that it protects you only when a responsive answer might incriminate you. You know that, don't you?

Mr. MIYAGI (after consulting with his counsel). Through the advice of my counsel, that is the understanding of the United States Supreme Court.

Senator JOHNSTON. Pass the witness.

Senator WATKINS. May the record show that the counsel who have appeared for the previous witnesses also appear for this witness?

Mr. ANDERSEN. It may so show.

Senator WATKINS. Both of them.

Mr. ANDERSEN. For all four who have testified.

Senator WELKER. Mr. Witness, prior to occupying the witness chair this afternoon did you discuss your testimony with any person or persons?

(The witness consults with his counsel.)

Mr. MIYAGI. I refuse to answer on the same ground.

Senator WELKER. Are you a married man?

(The witness consults with his counsel.)

Mr. MIYAGI. I am legally married and I have three children in my family; a pair of twins.

Senator WELKER. Your answer is "Yes," that you are a married man?

Mr. MIYAGI. Yes.

Senator WELKER. I assume that's right.

Mr. MIYAGI. That's correct.

Senator WELKER. Why did you hesitate so long to answer that question?

(The witness consults with his counsel.)

Mr. MIYAGI. Well, the reason is there is so many questions tossed at me that it might have left a blank word when such a pointblank question is posed at this time.

Senator WELKER. That's a pointblank question, to ask you whether you are married? Now, it is your testimony you are invoking the privilege of the fifth amendment as to whether or not you discussed your testimony with any person or persons prior to occupying that witness stand where you are now seated?

Mr. MIYAGI. That is correct.

Senator WELKER. Definitely. That's all.

Senator WATKINS. You really believe that it would incriminate you to tell this committee that you did discuss what you might testify to with others. Remember, I think you would have the right to discuss your proposed testimony with others, with your counsel.

(The witness consults with his counsel.)

Mr. MIYAGI. I didn't understand the question. Could you repeat the question again, please?

Senator WATKINS. I asked you if you claim that it might incriminate you to discuss what you might testify to with others. That was the purport of the Senator's questions to you.

(The witness consults with his counsel.)

Mr. MIYAGI. Well, I believe so because otherwise I wouldn't claim self-incrimination of the protection of the fifth amendment.

Senator WATKINS. Your attorneys didn't advise you that it would incriminate you to talk over this testimony with anyone else, did they? Did they?

(The witness consults with his counsel.)

Mr. MIYAGI. Under the law I am sure that whatever discussion I had with my attorneys is confidential.

Senator WATKINS. It may be confidential but it wouldn't be incriminating, because you have a right to talk to your counsel. Well, let the matter pass.

Mr. MORRIS. Just a minute. The reporter has reached the end of his recording. He would like 2 minutes, Senator.

Senator WATKINS. We will pause with the examination; we will not recess. We will pause with the examination to permit the reporter to take care of the necessity there. He has to fill his pen.

(A 2-minute pause was taken.)

Senator WATKINS. Any further questions?

Senator WELKER. Yes. Mr. Witness, I want you to tell the committee, under oath, frankly and honestly, whether you believe telling the truth to this committee would tend to incriminate you or cause you to bear witness against yourself.

Mr. MIYAGI. Of course I do; otherwise I wouldn't ask for the privilege.

Senator WELKER. What?

Mr. MIYAGI. Of course; definitely so.

Senator WELKER. I didn't hear the answer.

Mr. MORRIS. "Of course and definitely so."

Senator WATKINS. Anything further? The witness may step aside.

Mr. MORRIS. Senator, there is one more order of business—however, not with this witness, Senator—that I think should be in the record at this time, although I will submit it, Senator, for judgment on your part and the other members of the committee who are present.

On the morning of Wednesday, November 28, I received a call from Counsel Symonds, who asked that he have a session with me. I made an appointment at 11 a. m., Senator, to meet Mr. Symonds, Mr. Andersen, and Mr. Symond's partner, Mrs. Bouslog. The meeting took place in room 16 in this particular building.

Now, after the counsel left I made notes on our meeting at that time. Senator, I would like to relate to you that particular discussion, and I think it is important in view of a certain advertisement that appeared in the Honolulu Advertiser this morning.

Mr. Symonds—

Senator WATKINS. You may proceed.

Mr. MORRIS. Mr. Symonds, Mrs. Bouslog, and Mr. Andersen stated that they had read that the Internal Security Subcommittee was interested in the present situation in Honolulu with respect to communism, and they said that they felt they could control their clients to the extent that they would answer certain questions. They asked if we would be willing to limit ourselves, we, the Senate, the Senators on the committee and counsel, would limit ourselves to two particular questions. One question is: "Are you now a Communist," and the other: "Have you been a member of the Communist Party within a certain period of time?" And they said "Let us take the period of 3 years." And they said if that could be worked out with the ILWU client, they felt they could work out the same arrangement with others that they would represent later on.

Now, at that time I said it naturally would be inadequate because in order to really determine whether or not a man is genuinely a Communist or not, we would have to look into the circumstances surround-

ing his detachment from the Communist Party; we would have to find out whether or not he is being put in some kind of reserve in the Party; we would have to know whether he is being put into some kind of a status called for by some reorganization of the Communist Party; and that it would seem to be very inadequate.

I then asked, "Suppose the Senators want to ask a third question?"

Counsel said, "No, the offer was only for two questions."

And I said, "Suppose we ask the question what these witnesses have been doing during the last 3 years."

And they said, "For instance."

And I said, "Suppose we ask them have they been attending meetings with persons they knew to be Communists."

And again they repeated the fact that the offer carried only for two witnesses.

Senator WATKINS. Two questions.

Mr. MORRIS. Two questions.

Senator WATKINS. You said "two witnesses."

Mr. MORRIS. Two questions. I am sorry.

I said, "As you know, there have been reorganizations of the Communist Party."

One of the counsel just incidentally picked up the phrase, "as you know," and I said "Well, I am now speaking, asking as you know from your general observation, nothing personal is intended."

I recalled the fact that we had just completed an investigation of Tass News Agency, and I pointed out that in the Tass News Agency investigation we found that as individual witnesses who had been members of the Communist Party took up employment with Tass, they formally severed their Communist Party membership, even though at the same time they continued to attend Communist meetings and kept up their old Communist association, and as soon as they finished their employment with Tass they again resumed their membership in the Communist Party. I said the committee had learned that and yet you can see the committee never could have learned that relationship if they had limited themselves to two questions.

Again I went into the situation. I said, "Now this is a suppositious case," and I stressed the word "suppositious." I said, "Suppose the ILWU is Communist-controlled. All of the ILWU people would be subject to the discipline that would enure to that particular relationship. If then the ILWU could, for tactical purposes, then say that its members would no longer be required to be members of the Communist Party but they felt that they could be controlled because of the discipline within the union, I said, "If that were the situation," and I stressed the suppositious, we never could get the real relationship that existed at the present time."

At the conclusion of that, Senator, I expressed the opinion, I said, "It is not for me to make the decision, but obviously this is a very inadequate offer and could not get at the facts." And I immediately reported to Senator Eastland.

At the same time, counsel said they would like to have an answer by two because they were going to meet with the committee at that time.

I said I would not see the chairman until 6 o'clock. I saw the chairman at 6 o'clock and I related what happened to him at the time.

He expressed the same reaction to the offer that I did, that obviously the offer was inadequate; he said that it was so inadequate that there was something else behind the offer, that it couldn't conceivably be an offer because no Senate committee could circumscribe itself.

We expressed the—Senator Eastland or myself, or both of us, expressed the estimate of the situation that counsel were up to something to use against the committee and it was not a genuine offer, so inadequate was it on its face. Senator Eastland, however, said that we would do nothing about it, inasmuch as it was an offer between counsel, and that's where we left it until we read in the paper this morning, in the Honolulu Advertiser, a rather large—almost a full-page ad.

Now, I would like to offer the ad for the record, Senator Watkins, because it reads—

Senator WATKINS. You may read it in the record.

Mr. MORRIS (reading) :

Here is the proof—

is the title to this ad—

that the Eastland committee is definitely interested in things other than alleged Communist activity in the Hawaiian Islands.

2. That the Eastland committee, despite the protestations of Senator Eastland to the contrary, intends to use the local hearings for the purpose of defeating statehood and attempting to undermine the ILWU.

Why is this true?—

is the next caption.

Last Wednesday morning the ILWU, through its attorneys, went to the attorney for the Eastland committee and made this offer: "Every official or employee of the ILWU currently under subpoena will reply with yes or no answers to the following questions. (1) Are you a member of the Communist Party? (2) Have you been a member of the Communist Party at any time during the last several years?"

The union attorneys notified that committee counsel, that if the committee would agree not to go on a fishing expedition into the private affairs of the ILWU, they would assure Senator Eastland that every union officer and every union employee under subpoena would answer the above questions.

This offer was rejected. Why? If the Eastland committee is down here to get the facts relating to Communist activity in the ILWU, then why did the committee refuse to take advantage of this union's offer? We can come to only one inescapable conclusion—

reads the ad—

we are convinced that Senator Eastland's hearing is being held for the purpose of defeating the statehood bill before it is introduced by Delegate-elect John H. Burns and for the purpose of damning the ILWU.

P. S.—This good-faith offer is open until the first ILWU witness is sworn in by the committee.

And that is put in in the name of the International Longshoremen's & Warehousemen's Union, Local 142.

Senator WATKINS. The present Chair would like to say that I think the chairman of the committee and counsel properly rejected any such offer.

The power of this committee is given by the Constitution of the United States—the power to investigate and to conduct the affairs of the country by the Senate of the United States, and no member of the Senate, no staff member or anyone else, has a right to enter into an agreement that would limit the powers or take away the powers of

this committee. And I think that probably is as well understood by the attorneys who made the offer as to the members, to the chairman or to the counsel for this committee, Mr. Morris.

There are many practical things that would have to be completely eliminated from the investigation if questions are limited to the two named. It is highly important to find out what has been going on, what has been happening. And, of course, that matter couldn't be gone into under any such an agreement. No matter what they had been doing, you could only ask the two questions and that would be the end of it.

It is contrary to public policy for the committee to be asked to give up its powers and to limit its right and its duty to investigate. Remember, we have a duty in these premises, as well as a right. Our duty is to investigate and get the facts.

If these witnesses refuse on the ground of the protection of the fifth amendment, that is their right under the Constitution, but that doesn't mean that we can't go on and investigate further ourselves into these matters. And it doesn't mean that these people can't be called as witnesses in this proceeding. We may find some that would be willing to cooperate with the committee and answer the questions.

I have that comment to make. I think it is sound law that under the Constitution this committee had no right whatever, would have no right whatever to accept a proposition of that kind.

I call on the other members of the committee, if they would like to make comments on this procedure.

Senator JOHNSTON. I agree with what the acting chairman has said, that no one of this committee has a right to change the law in regard to our field of investigation. Another thing, if we should accept an offer such as this, I predict that in the future it would kill the usefulness of this committee, because every other person coming in would make the same offer, and we would not be able then to find out about many other people that are involved beyond, maybe, the one that is testifying at that particular time.

So it is very important that we have broad fields in which we may ask questions to try to find out what is going on in this Nation of ours in order to protect it against communism throughout, not only your sweet little islands, but all of the 48 States that we now have in this Union of ours.

Senator WELKER. Mr. Chairman, I would like to make an observation.

Senator WATKINS. Senator Welker.

Senator WELKER. Any such attempt on the part of counsel, that I met for the first time this morning in executive hearing, amounts mighty close to being a conspiracy on their part to embarrass this committee and to save time upon their part. I think this: That you, being the able attorneys that you must be, certainly know that the right of cross-examination would be barred to every man on this committee, and for us to limit the interrogation of the witness to 1 or 2 years is simply absolute folly and foolishness. Anyone who has made a study of communism knows that they can change the rules in the middle of the game, that they have done it, and that they have gone underground. To propound a question to a witness and ask him "Are you now or have you ever been a member of the Communist Party?" and he replies "No," when all during that time he knows that

he is a secret underground member of the Communist Party, that would destroy, as Senator Johnston and the chairman have stated, the effectiveness of this committee.

I think it is outlandish and ridiculous, and I am embarrassed that this ad was put in the newspaper.

Senator WATKINS. Any other comments? Did you have anything further to offer?

Mr. MORRIS. No, Senator. I have nothing more. Tomorrow morning, the first witness will be former Governor Stainback, who is now a justice on the Territorial Supreme Court, and then we have two other witnesses who have been subpoenaed.

And, Senator, before the public hearing begins at 9:30, we have arranged with counsel that they will have these two witnesses available for a short executive session. Now, I estimate, if we met in executive session at 9:15, that we would be able to be ready to commence the open hearing at 9:30.

Now, if the chairman, the acting chairman or the chairman would ask one of the senators to be present 15 minutes in advance, we will be able to take care of the matter at that time.

Senator WATKINS. The open hearing of this committee will be recessed until tomorrow morning at 9:30 a. m.

The committee is in recess.

(Whereupon, at 4:50 p. m., the subcommittee recessed.)

SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

SATURDAY, DECEMBER 1, 1956

UNITED STATES SENATE,
SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION
OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL
SECURITY LAWS, OF THE COMMITTEE ON THE JUDICIARY,

Honolulu, T. H.

The subcommittee met, pursuant to adjournment, at 9:30 a. m., in the Senate Chamber, Iolani Palace, Senator Olin D. Johnson presiding.

Present: Senator Eastland, chairman; Senators Watkins, Johnston, Welker, and Butler.

Also present: Robert Morris, chief counsel.

Senator JOHNSTON. The committee will come to order.

I believe our first witness for today is Judge Ingram Stainback. Will you please come around? Will you raise your right hand to be sworn?

Do you solemnly swear that the evidence you give before this subcommittee will be the truth, the whole truth, and nothing but the truth?

Judge STAINBACK. I do.

TESTIMONY OF INGRAM M. STAINBACK

Senator JOHNSTON. Judge Stainback, just a little preliminary. Where were you born?

Judge STAINBACK. Tennessee.

Senator JOHNSTON. What part of Tennessee?

Judge STAINBACK. Not far from Memphis; Somerville, Fayette County.

Senator JOHNSTON. What county?

Judge STAINBACK. Fayette County.

Senator JOHNSTON. That's the same county my father was born in, so I just wanted—

Judge STAINBACK. Our fathers were distant cousins, then.

Senator JOHNSTON. Witness is with you.

Mr. MORRIS. Mr. Chairman, Senator Johnston. We had a near tragedy on the staff this morning. Benjamin Mandel, our research director, went out for a swim in the ocean, and apparently the surf was quite rough, and being a man of 65 years of age, he did go out too far and he couldn't get back in. We don't know all the details, but he was brought to the Emergency Hospital and after examination it was ascertained that he will be all right, they will be able to pull him out of it.

Now, I think it is going to handicap us considerably this morning, Senator, because we do not have the key to all our files. Ben has the key and we don't know where the key is now. So we are this morning, Senator, operating without our files and all the records and everything that we had planned to use this morning. Even the contemporaneous notes I had made in my session with Judge Stainback here this morning are unavailable.

Senator JOHNSTON. I know all the members of this subcommittee and also the staff regret to hear of this accident. We certainly hope that Mr. Mandel will be all right soon.

Senator WELKER. Mr. Chairman, may I make an observation?

I think we should say thanks to that great rescue group that saved Ben Mandel, because the information I have is that it was most heroic, courageous, and out of this world, and we should say thanks to those people who saved his life.

Senator BUTLER. Mr. Chairman.

Senator JOHNSTON. Senator Butler.

Senator BUTLER. I was awakened this morning about 10 minutes until 7 by the frantic calls for help from the beach, and I got up and looked around and saw nothing and went back to bed again. Apparently that was Ben, asking aid. I certainly hope he recovers rapidly.

Senator JOHNSTON. The witness is with you, Mr. Morris.

Mr. MORRIS. Judge Stainback, how long have you resided in Hawaii?

Judge STAINBACK. 44 years. I came here in 1912 to stay 1 year and am still here.

Mr. MORRIS. What positions have you held here, Governor?

Judge STAINBACK. In 1914 I became attorney general of the Territory.

Mr. MORRIS. You say in 1914?

Judge STAINBACK. Yes.

Mr. MORRIS. Became attorney general.

Judge STAINBACK. And then I entered the Army in the First World War, and after I came out of the Army in 1919 I went into private practice until 1934. I became United States attorney, was appointed and reappointed, but before my second term was out I was made a Federal judge in 1940. I served as United States district judge from 1940 to 1942. In July of 1942 I was appointed Governor of the Territory of Hawaii and served until 1951, April 30 or May 1, I believe, and then I was appointed to the United States—I mean to the Supreme Court of the Territory of Hawaii as justice, and I am still serving on that court at present.

Mr. MORRIS. Judge, you were the Governor of the Territory from what period of time?

Judge STAINBACK. 1942 to 1951. I became Governor about 6 months after the outbreak of World War II. I was called to Washington.

Mr. MORRIS. Now, Judge Stainback, when did you first become aware of the fact that there were Communists on these islands?

Judge STAINBACK. That was in about March 1947. Strange as it may seem, I had never heard of Communists here. I had discovered one of the leading spies of Japan but I had never heard of a Communist in the Territory. I don't know that anybody had heard anything particularly about it.

Mr. MORRIS. This was in March 1947?

Judge STAINBACK. March 1947. General Hull, who was then commanding officer of the Hawaiian Department, called me up and wanted to call and see me, he wanted a full morning. So he came in with his intelligence officer and he said he wanted to warn me against the plan of the Communist cell in San Francisco to have placed on the board of regents of the University of Hawaii a local Communist, and he mentioned his name.

I told the general that he need not worry about that particular fellow; I had turned him down. Not that I knew he was a Communist, or anything about the Communists. I had men that I thought were better qualified for the various positions on the board of regents of the University of Hawaii. They are among the numerous appointees of the Governor.

If you will notice here, Hawaii is a very centralized government, relic of the old monarchy, and the Governor appoints nearly everybody, to every commission and board throughout the Territory.

Mr. MORRIS. Now, Judge Stainback, General Hull, who was the commanding officer in the Pacific Command—

Judge STAINBACK. Pacific Command, yes.

Mr. MORRIS. He came to you—

Judge STAINBACK. Yes.

Mr. MORRIS. To warn you that—

Judge STAINBACK. Yes.

Mr. MORRIS. A man who was a possible appointee to the board of regents was a Communist?

Judge STAINBACK. Yes. And then he took up the question of the Communist infiltration into the Territory. General Hull was a little reluctant to talk about the information he had because he said he could only use it for the protection of the Territory. But after some discussion he agreed that I was charged with protecting this Territory. In fact, the organic act specifically puts the Governor in charge to call out the National Guard or the Army and Navy, or declare martial law. He has sweeping powers over protecting the Territory.

So he then went very fully into information regarding the Communist activities in this Territory, which had been going on for some 10 years.

Mr. MORRIS. That is, for some 10 years prior to 1947?

Judge STAINBACK. Yes, sir. And the information he gave me was rather astonishing and shocking, to say the least.

At first there were 4 schoolteachers, 1 of them probably the most active, at least in letter writing, in the Territory and in propaganda proceedings. And he thought that something should be done as the Communist infiltration here in the Territory, particularly as they were getting into key positions or trying to, was a menace to national defense.

So he gave me a list of a hundred or more, somewhat more than a hundred, well-known Communists, card-holding Communists. They knew they held cards.

Mr. MORRIS. Now let me see, Judge. He gave you a list—

Judge STAINBACK. Yes.

Mr. MORRIS. Of more than a hundred names and these people, according to his information, were card-carrying Communists?

Judge STAINBACK. Yes. And then about—well, I've forgotten how many more, possibly 50 more that they were satisfied were Communists, but they had never been able to discover their cards or their card numbers, or however they discover them.

Mr. MORRIS. Now may I break in at this point, Judge? You did give the committee that list, did you not?

Judge STAINBACK. I gave you a list of the known Communists; I don't believe I gave you the one of the suspects.

Mr. MORRIS. Mr. Chairman, we have in our files the list referred to by Judge Stainback. I suggest we, however, not put that list in the record, in our public record, certainly at this time. As you know, consistent with our policy, we try to keep names out of our record—names mentioned in a derogatory, security information, sense—out of our record until the people themselves have an opportunity to come in and comment on it.

And so I say, Senator, may we keep the list that the judge gave me the other day for our executive file but not put the information in the general file? May it go into the record with that limitation, Senator?

Senator JOHNSTON. The list may be kept as is the customary procedure of this committee, for our information.

Judge STAINBACK. I also have a list of what they call fellow travelers. That was not so numerous. But those who were sympathetic to Communist procedure and propaganda—and he gave me some other documents. One of them included the plan of Communist infiltration into Hawaii. It was 7 paragraphs, long paragraphs, and I expect to use 1 paragraph of it to show you what they—the most active part of their procedure.

Senator JOHNSTON. This was given to you in 1947?

Judge STAINBACK. 1947. Yes, sir.

Mr. MORRIS. And was all security information, is that right?

Judge STAINBACK. For my security information. In fact, General Hull was a little bit reluctant—that was very hush-hush information, and I should keep it so. And I believe he said if I ever told anybody he gave it to me, he would say I was a liar, or something to that effect.

Mr. MORRIS. In other words, what General Hull was trying to do, Judge, was that he, recognizing the danger that existed, wanted to alert you, a Territorial official—

Judge STAINBACK. Yes, sir.

Mr. MORRIS. And yet he couldn't make a formal communication to you because of the restrictions placed on the information?

Judge STAINBACK. He was more—he was much perturbed and we discussed what I should do to help the situation. Well, I said I could do something about those schoolteachers in pretty short order, which I did.

Senator JOHNSTON. Judge, he thought, though, that you could keep it confidential and you could handle the matter much better than publishing it to the world at that time?

Judge STAINBACK. Yes, sir.

Senator WELKER. May I ask a question, Mr. Chairman?

Senator JOHNSTON. You may, Senator Welker.

Senator WELKER. Can everyone hear in this hearing room? I can't. What's the matter with the loudspeaker system? Let's get it on the ball.

Judge STAINBACK. Can you hear this?

Mr. MORRIS. It may be, Judge, we can hear you, but the people in the room cannot.

Senator, why don't we take a 5-minute recess then?

Senator JOHNSTON. The committee will take a 5-minute recess to check the loudspeaker system, to see what is wrong with it.

(A short recess was taken.)

Senator JOHNSTON. You may proceed.

Mr. MORRIS. Senator, before we resume, I would like to mention for the record that Senator Butler and Senator Watkins have gone out to the Emergency Hospital to see Mr. Mandel, accounting for their departure from the committee room a few minutes ago, Senator.

Senator JOHNSTON. You may proceed.

Judge STAINBACK. On these two schoolteachers, on which we had such voluminous evidence, I wrote to the school board, asking that this be investigated, and, if they were found guilty of preaching communism throughout the schools and throughout the Territory, they should be immediately removed. And I appointed a very competent lawyer as a member of the board of education to aid in conducting this investigation.

Well, they had a long trial—Mr. and Mrs. Reinecke. They were defended by Mr. Gladstein, who has been pretty famous throughout the country as defending Communists. They were found guilty and removed as teachers.

I started investigating the two other teachers, which we did not have so much on. They immediately resigned and left for the coast. So we solved that problem.

I also kept this list so that no others could be appointed to any position throughout the Territory. I found that 1 or 2 had been placed on, either as election judges or inspectors, whose names we usually took from the party chairmen and the secretary attended to that, just sent me a list. Frequently I didn't know one in a hundred. I had 600 or 800 to appoint each election. But I scanned even those lists thereafter.

One of the shocking things about the information General Hull gave me was this seven paragraph statement: "What we must do." So I told the general that I would start a one-man crusade against the Communists in the Territory.

The general invited me out to speak on Army Day. That was in April, I think.

Mr. MORRIS. April 1947?

Judge STAINBACK. 1947. That was on the reactivation of one of the Hawaiian regiments, the 442d, I believe, or one of the regiments that served with distinction in the war. I spoke to them and pointed out that we were not free from the dangers of a cold war, an underground war, and warned them to be on the alert. In fact, I went on a speaking campaign from then through the next 2 years. I spoke on the Fourth of July, Labor Day, before a labor body, before the chamber of commerce. Navy Day I spoke, and Admiral Hall, who was here then—

Mr. MORRIS. That's Admiral Hall?

Judge STAINBACK. Admiral Hall made a very vigorous attack on the failure of the citizens of Hawaii to support my campaign against the Communists, so vigorous that the admiral afterward told me that

some of the politicians or some of the Communists had written to Washington, complaining that he was taking part in local politics. Well, I don't think the popgun attacks bothered Admiral Hall much, as he had faced the guns in the landing at Normandy.

Mr. MORRIS. Is Admiral Hall Rear Adm. John L. Hall, Jr.?

Judge STAINBACK. Jimmy Hall, they called him, those who knew him well enough.

Mr. MORRIS. Rear Adm. John L. Hall, Jr.?

Judge STAINBACK. What's that?

Mr. MORRIS. That's Rear Adm. John L. Hall, Jr. You say you knew him familiarly as "Jimmy"?

Judge STAINBACK. I always thought—I thought—it must have been James. They called him "Jimmy." He was in charge of the fleet operation at the landing in Normandy and was in command out here for several years. He recently retired. I saw him in San Francisco a few years ago.

But he was called to explain his talk. And incidentally, at that time, I kind of apologized for repeating my attacks on Communists, so I cited the old Roman senator, Cato. In every speech between the Punic Wars he would always close with "Carthago delenda est." Whatever he was speaking about, he might talk about the—of course, I would translate that for the Harvard men present as "Carthage must be destroyed."

Mr. MORRIS. Will you spell that for the record? Judge, may I just spell that? C-a-r-t-h-a-g-o.

Judge STAINBACK. Delenda est. It has been some time since I worked with any Latin.

Mr. MORRIS. "Carthage must be destroyed."

Judge STAINBACK. Yes, sir. In fact, the term, 6 or 8 months later, was used by our then President, I think, in some speech. I don't know if he got it from me. President Truman.

The paragraph that bothered me so much in these, what the—the thing was headed "What Must We Do?" John E. Reinecke's name was on it—Honokaa, T. H.

Mr. MORRIS. The Mr. Reinecke mentioned here was John Reinecke, one of the defendants in the Smith Act trial out here. His case is now on appeal?

Judge STAINBACK. No. Oh, no. He was also dismissed, one of the teachers dismissed after the trial and hearing.

Paragraph 6 read as follows:

Goals acceptable to liberal as well as radical elements in Hawaii should be set up and striven for (on the side) as a means of arousing popular support. For example, antimilitarism. First attack ROTC in the high schools, then in the university. Attack kowtowing to military in the local press and public affairs. Weaken the National Guard unit as much as possible and propagandize its members to make them sympathetic to unions. Attack militarization of Boy Scouts.

Nothing was overlooked.

Education: Wide extension of educational opportunities. Removal of all fees and rentals. Aid of poor students—

and in parentheses (see Rex Davis' international pamphlet No. 39). I didn't have the privilege of ever seeing that.

No discrimination racially in placement of teachers. It is highly important to win the teachers and university and high-school students.

Civil rights: Aim at legislation abolishing repressive legislation (present laws against picketing and curbing foreign press) and legalizing strikes and picketing.

Religion: As an immediate objective—
now, this is a quote within that—

"take the Christian religion out of the public schools." Show how other religions are discriminated against in a subtle manner by use of Christian prayers Easter, Thanksgiving, and Christmas exercises, use of schools by Catholic priests, et cetera. Go on to attack Mission Board for its use of ministers and workers to hoomalimali plantation employees.

I might translate that "hoomalimali" as "kid 'em along, soften 'em up." That's a Hawaiian word.

Attack Roman Catholics for interference in public affairs (as an attack upon sterilization bill). Attack Buddhists for keep up Japanese sho-ism. Attack exploitation of Mormons by LDS Church.

Senator WELKER. What was that last?

Judge STAINBACK (reading):

Attack exploitation of Mormons by the LDS Church.

Latter-day Saints Church. I don't know exactly what they mean by that.

Attack exploitation of Mormons by the church.

Evidently they feel the church exploits them in their tithes, I assume. They charge them 10 percent. I don't know what else it means.

Attack social legislation; work for change in instance of taxation and outline a complete program of social legislation to be agitated for.

Press. Arouse public danger of "sugar-coated press."

That is only one paragraph of 6 or 7 paragraphs. I didn't read the others, although they still have their goals set forth in great detail.

I think that was filed in the trial of Reinecke, in the teachers' hearing, if I mistake not. Anyhow, if the committee wishes the whole letter, in pamphlet form, I will see if I can secure it.

Mr. MORRIS. Now, Judge, was Jack Hall's name on that list?

Judge STAINBACK. On the list of Communists?

Mr. MORRIS. Yes.

Judge STAINBACK. Oh, yes; he led the pack. Quite important. I believe I have part of that list here. See how they are listed here.

Mr. MORRIS. Judge, had you encountered Jack Hall up to this time?

Judge STAINBACK. Have I encountered—

Mr. MORRIS. Have you encountered Jack Hall up to this time?

Judge STAINBACK. Yes. I was very much embarrassed. I put him on the police commission and fired him from the police commission, both.

Mr. MORRIS. You mean you had appointed him as a police commissioner?

Judge STAINBACK. Appointed him as a police commissioner and then I fired him.

Mr. MORRIS. Was that prior to 1947?

Judge STAINBACK. Not because I knew anything about his Communist connection, but because of his vicious attack in the strike of 1946. I fired him right after that because of his attack upon then

Circuit Judge Rice, who is now chief justice of the supreme court of the Territory.

Mr. MORRIS. That's Judge Philip Rice?

Judge STAINBACK. Yes, sir.

Mr. MORRIS. Will you tell us about that episode, Judge?

Judge STAINBACK. I beg your pardon!

Mr. MORRIS. Would you tell us about that?

Judge STAINBACK. Well, he got out a pamphlet over his own name, in which he spoke of "the lawless judge." I had a copy of it here somewhere.

Mr. MORRIS. I know you gave me a copy of it the other day, Judge, and it is one of the things locked up in the files to which Mr. Mandel has the key.

Judge STAINBACK. I think I possibly have another copy here, if I can find anything, after the wind got through.

Senator JOHNSTON. Help the judge arrange his papers over there. The wind blew them all away and sort of disarranged them.

Judge STAINBACK. There is a photostat copy here. Here it is. Nothing like having a little assistance.

It is headed—this is a photostatic copy of the little pamphlet they circulated.

Mr. MORRIS. Yes. Read some of the significant portions of it, will you?

Judge STAINBACK. It is headed:

A LAWLESS JUDGE WILL NOT BREAK THE SUGAR STRIKE

A STATEMENT TO THE PUBLIC

No company manager, especially Philip L. Rice, is going to crush the struggle of nearly 100,000 men, women, and children for a better life and control of their own destiny merely by issuing an injunction.

It seemed that Judge Rice had issued some sort of injunction; I don't know what it involved particularly.

Then he goes on with a vicious attack—

Mr. MORRIS. How did you know it was Jack Hall who composed that?

Judge STAINBACK. Oh, he signed it; it is signed "Jack W. Hall, regional director, International Longshoremen's and Warehousemen's Union."

Mr. MORRIS. At the same time, he was a police commissioner!

Judge STAINBACK. He was a police commissioner. I called him in; I said, "Jack, what is this attack on the judge by a police commissioner?" I said, "Your duty is to enforce law and order, not to create disrespect for our judges." I said, "A democratic nation can't exist unless there is respect for judges."

Well, he mumbled something about his duty to his union.

I said, "Well, maybe Judge Rice was wrong," I said, "judges frequently are." Maybe myself—once or twice in my life, when I was on the bench.

Senator JOHNSTON. Very few.

Judge STAINBACK. I said, "You have the right of appeal. You can go to the Supreme Court of the United States if there is any Federal question of your rights involved." I said, "You can't get

out a pamphlet like that, attacking his integrity, trying to belittle him."

Well, as I said, he still mumbled his duty to his union, so I called my stenographer in and dictated his resignation; I said, "Sign." He signed it. Several days later he sent in a more elaborate resignation, which I didn't read because I think he attacked me and everybody else.

So I hired and fired Mr. Jack Hall before I found out that he belonged to the Communist Party and was one of the leaders in the organization, according to the report I got.

Well, General Hull and I talked about my one-man crusade; as I said, I made speeches on every occasion, and finally reached the stage where I had to apologize for using this "Carthega delenda est" on every occasion.

Hall is listed in the list he gave me "John Wayne Hall, alias Jack, residence, 2955 Oahu Avenue, Honolulu; occupation, regional director, ILWU-CIO, pier 11, delegate, Fourth District, Democrat—delegate, Sixth Precinct, Fourth District, Democrat."

I believe that last notation was made by me in 1950. I am not sure. He was a delegate to the convention.

So I continued speaking throughout the Territory, and later on, on the coast, San Francisco, Portland, Los Angeles, and I was invited as far east as Minnesota, but I did not go.

At the meeting of the next legislature I recommended the establishment of a subversive committee.

Mr. MORRIS. You made the recommendation, sir, that led to the establishment of the Territorial Commission on Subversion?

Judge STAINBACK. Yes, sir. And we got that passed and I made the appointments to the first board and probably to several boards.

In 1949, the day the legislature closed, the day after, they declared a maritime strike, a shippers strike. Of course, shipping is the life-line of the Territory; it can't exist without communications between here and the mainland. So naturally I was very much disturbed. I called in the officers of the ILWU. I think Mr. Goldblatt was one of them; there were several of them, and finally Mr. Bridges himself. I think, came down. I called in representatives of the employers, and I called them in separately and apart, and we could get nowhere. And then under the statute I appointed what we call a factfinding commission, five members. The chairman was former Chief Justice Coke, a former chief justice of our Territorial supreme court.

Mr. MORRIS. Will you spell that for the record, sir?

Judge STAINBACK. I beg your pardon?

Mr. MORRIS. Will you spell his name, for the record, sir?

Judge STAINBACK. Coke. C-o-k-e. The same as our distinguished jurist of England years ago.

In a few days I heard, it was brought to me, I think Judge Coke himself brought it to me, the statement—Mr. Goldblatt used the expression that was given to me, "He didn't give a damn what the factfinding board found, they were not going to accept it."

So I ordered the factfinding board to report within a week and I took out for Washington, to see what help I could get back there, because our very existence depended upon maintaining communications with the mainland by way of shipping.

Well, they told me that that didn't come under a national emergency, so they couldn't use the President's powers, which he is now using in the present strike, by way of injunction, and that "It was my baby."

MR. MORRIS. So that you were told in Washington that you had to solve it on a local level?

Judge STAINBACK. Solve it on a local level, a local matter.

SENATOR WELKER. Mr. Chairman, we might keep the record in order here. At the point where Judge Stainback read from a photostat allegedly written by Jack W. Hall, entitled "A lawless judge will not break the sugar strike," I ask you, Mr. Chairman, that the whole of that document be incorporated in the record at this point, whereas Judge Stainback referred to a certain portion thereof.

SENATOR JOHNSTON. This shall be copied and printed in the record as part of the testimony.

(The document above referred to was marked "Exhibit No. 384" and reads as follows:)

EXHIBIT NO. 384

A LAWLESS JUDGE WILL NOT BREAK THE SUGAR STRIKE

A statement to the public:

No company-minded judge, especially Phillip L. Rice, is going to crush the struggle of nearly 100,000 men, women and children, for a better life and control of their own destinies merely by issuing an injunction.

Judge Rice's issuing such an injunction after a private conference with the Lihue Plantation Co. behind closed doors is not in keeping with the American sense of fair play. It was an outrageous thing to do. The proper procedure to have followed, and any fair-minded judge would have done so—would have been to call in both the company and the union. To have then held a hearing on the facts before issuing such an arbitrary injunction. This is the procedure followed in fair courts.

This flagrant disregard for the basic principles of fair play is understandable, however, when you know that members of Judge's Rice's family are stockholders of Lihue Plantation. It is understandable when you know that Judge Rice represented Lihue Plantation and other Big Five companies for many years as corporation counsel.

I personally sat opposite him in an earlier strike against Lihue Plantation where he represented that firm at the bargaining table.

Company Judge Rice's prejudice against the workers is great. His action in this injunction matter reeks with it. In his anxiety to assist the strikebreaking program of the employers, he ordered a temporary restraining order against the union, *even though the Lihue Plantation Co. did not ask for such an order in its petition.* That is the height of prejudice.

It is customary in injunction proceedings where property rights are involved to require the petitioner to post a substantial bond. The property rights of the workers—their job rights—are involved in this proceeding, but Judge Rice did not even think it necessary to require the company to post a bond as evidence of good faith.

Hearing on the injunction is set for 10 days hence—10 days in which the employers can develop their strikebreaking plans without the moral persuasion of perfectly legal picketing. Usually injunctions are returnable in 3 to 5 days. That, apparently, is not enough time for the employers, so Judge Rice conveniently allowed them 10 days.

The judge's order is so vague, broad and all-inclusive that it is practically meaningless. It is aptly described as a mass of glittering generalities. Its language is so cloaked with uncertainties that no worker can reasonably be expected to know what he may and what he may not do.

The ILWU believes that the laws of the land should be lived up to by everybody, including judges. But there is a vast difference between the law and privately issued, one-sided edict of a lawless judge.

JACK W. HALL,
Regional Director,
International Longshoremen's and Warehousemen's Union.

Judge STAINBACK. I will say while I was in Washington I had a very fine opportunity of having dinner with four United States Senators, including Senator Taft, the author of the Taft-Hartley Act, Senator Russell of Georgia, and Senator Hugh Butler, I believe, and Senator McClellan of Arkansas. So I took up with the Senators, particularly Senator Taft, what I could do, that I had been denied any help by the administration, and I said, "I thought I could take care of unloading the ships if we get them here." But they would refuse to load "hot cargo," as they would call it, on the coast.

Senator Taft told me that that would violate the Taft-Hartley Act as a secondary boycott, and that the United States Government authorities would have to protect me on that end.

I went to see the Interior Department and I said, "Well, if you can't give me any help, at least don't give the bear. I think I can go back and take care of the local end of it."

So I came back in July 1949 and immediately summoned a special session of the legislature, to which I recommended what they now call the dock seizure act, which our friends the Commies call the Stainback strikebreaker. That act was passed, giving me power to take over, in time of emergency, the docks, like a public utility. In fact, they made it a public utility. I don't think either the employers or the employees wished me to take them over, but I took them over. I religiously refrained from using any military force in seizing the docks. And I put in charge of it a good two-fisted contractor, and we moved the cargo, in fact more expeditiously than the private individuals.

I was somewhat uneasy when I took over the docks because I remembered the murders on the Oakland waterfront years ago. There was a waterfront strike. In fact, those murders made Warren Governor—the prosecution of those murderers made Warren Governor of California—our now Chief Justice.

So I called in the police commission, the chief of police, and I told him, "We must be very alert to crush the first sign of violence." So things went along pretty well for a few days, and then the strikers made a diversionary attack on one side and attacked in force on the other side while unloading cargo. The police were very alert. We had a very fine chief of police, and he picked up between 75 and 80 of them immediately. They were either fined or jailed. Though the strike lasted some months later, we had no more violence or attempted violence.

The factfinding committee made a report, upon my return, in which they advocated a raise in wages—I don't know what the amount was or how considerable it was—and the employees flatly rejected it. The employers, after some hemming and hawing, agreed they would accept it. So the strike continued, but the cargo was moved after we took over the docks. They attempted, I believe, to refuse to load in San Francisco and I tried to get the United States authorities on the job. But fortunately no action was necessary there; the strike was settled and the men went back to work on the wages they had refused 4 months earlier.

Due to my securing the passage of this act, I was enemy No. 1 to the Communists of the Territory, and they never lost any opportunity to attack me or try to obtain my removal.

I was invited to San Francisco sometime after this to make a talk and I had a real royal reception there. Your reception here re-

minded me somewhat of it. They met me with banners, parades, picketed the place I was supposed to speak, circulated various circulars. I was fortunate enough to obtain one, one of my prize souvenirs. It is headed "Danger to all of us" or "all of U. S." I don't know which. "Us," I guess.

The Hawaiian S. S. law can mean the end of free America. The Hawaiian legislature, at the insistence of Governor Ingram Stainback, has just enacted a liberty-crushing law, along with similar amendments to break this strike of longshoremen there. The law and the amendments go further than any previous antilabor law ever enacted by the United States or any of its States.

That, of course, is not true. A great many States have enacted laws which are followed, giving the power to seize public utilities when on strike where such utilities are necessary for the preservation of the health and welfare of the people. There is none on docks because there is no place the docks are as important as they are to Hawaii. So that was not quite true.

They openly take the side of the employers and particularly direct the workers to go back to work, without any attempt to meet or even compromise or arbitrate their demands. They even make it a crime for anyone to help the strikers with so much as a plate of beans.

I apparently overlooked that part of it.

Then "Ingram Stainback, author of the S. S." and then in parentheses "(Stainback strikebreaking law)"—

is here today, speaking before the Junior Chamber of Commerce at the Commercial Club in an attempt to explain and teach enactment and enforcement of those laws.

If those laws are allowed to stand unchallenged, it means all cherished American freedom can be taken away, not just from workers and their trade unions, but from everybody. What can be done to labor can be done to you.

Stainback is appointed by President Truman. President Truman can remove him for taking this hysterical, anti-American step.

As far as we are concerned, this kind of strikebreaking and denial of union rights will not be allowed to work. Join our demonstration today. Tell President Truman to remove Stainback.

This is signed "Longshoremen's & Warehousemen's Union and San Francisco CIO Council."

Senator JOHNSTON. What date was that?

Judge STANBACK. What's that?

Senator JOHNSTON. What was the date of that? What was the date of that?

Judge STAINBACK. I can't tell you. It doesn't seem to be dated, but it was soon after the enactment of this law, sometime in 1949. I think approximately about September—August or September.

I was trying to preserve the fight against the Communist and trying to get enforcement of our shipping here, to protect the Territory from starvation and worse.

At that time the ILWU was a member of the CIO and the CIO was very influential in Washington. Soon after this the ILWU was kicked out of the CIO. I was a great admirer of Philip Murray. He was an outstanding labor leader. And I went to call on him in Washington, and explained his strike-ridden subordinate union down here. He had come out openly against "the damn Communists," as he called them, within his union. And I didn't get a chance to talk to him very long because at that time there were negotiations on the steel wage, but he was greatly concerned. But he did not know of Hall

or any of the other leaders here, so far as I know. But he asked me to leave him a list of the Communists who were prominent in the ILWU.

Well, I don't know that that had anything to do with the removal of the ILWU from the CIO, but not so long after that they were kicked out of the CIO organization.

Mr. MORRIS. That was while you were still governor?

Judge STAINBACK. Yes.

Mr. MORRIS. Now, did that cause any change of attitude on the part of either the Government or the people in the Territory, that expulsion on the part of the CIO of the ILWU?

Judge STAINBACK. Not to any great extent. I tried to get some of the Democrats to work with me to clean out the Democratic Party.

Mr. MORRIS. You yourself were a Democrat, were you not, Judge?

Judge STAINBACK. Oh, yes, I have always been. I'm from Tennessee.

Mr. MORRIS. Will you tell us about that, Judge?

Judge STAINBACK. I saw these various officers of the precinct clubs here, delegates to our convention. In 1950, I should say about 40 or 50 of these Communists were delegates to the Democratic Convention.

Mr. MORRIS. That is out of how many, Judge?

Judge STAINBACK. Beg your pardon?

Mr. MORRIS. You say 40 to 50. Out of how many?

Judge STAINBACK. Forty-eight. They had a meeting and there was quite a number there. Their leaders were very active. They refused to endorse President Truman or me and they were more or less supporters of Wallace, although they didn't endorse him, I think, actually endorse him. The delegates, after they went back to Philadelphia, saw the light, I think, how things were running and they switched over to Truman, but they all opposed him at that time.

I did get some very fine assistance from Mr. Borthwick here, who was quite a friend of many of the laborers, and old-time labor leaders before the Communists took over.

Mr. MORRIS. Who was he, sir?

Judge STAINBACK. Borthwick. Bill Borthwick.

Mr. MORRIS. Will you spell that for the record, please?

Judge STAINBACK. B-o-r-t-h-w-i-c-k. I am not much at spelling, but I think that's correct.

And he was very active in trying to clean house with the Democrats and to further expose the Communists.

I may say Mr. Harold Rice, of Maui, in 1950 took a very active part. I was in Washington when the Democratic convention met, and I talked on the telephone to the then acting governor, Mr. Warren, Mr. Rice, and there were 15 delegates to this Democratic convention who had been members of "The Reluctant 49" or "39," as we called them. Thirty-nine witnesses before the House Un-American Committee, Mr. Walter, chairman.

Mr. MORRIS. That was in 1950, Judge.

Judge STAINBACK. This convention—I think they were down here in 1948. I am not sure.

Mr. MORRIS. No. The hearings were in April 1950.

Judge STAINBACK. Oh, was it 1950? Well, they were members of this "Reluctant 39," and the convention was after that, because I telephoned that we should not permit those people to sit as delegates

to a Democratic convention; they were not Democrats, they were Communists.

And the Communist bunch had a majority, had more than a majority—I don't say they had a majority because a lot of them were not Communists, they were just going along with them.

So I suggested that they walk out of this convention and hold their own, which they did. Mr. Rice led the walkout and we held a convention, the Democrats, in 1950, adopting a platform and acting as a Democratic Party. But the bunch with the reluctant 15 or 39 held its convention and adopted its platform, and we had somewhat of a split.

Senator JOHNSTON. Judge, that shows that a small minority could maneuver and get control of the machinery at a convention; is that true?

Judge STAINBACK. They did. But that is not unusual among Communists. I understand in every Communist country the actual Communist members are a very small minority. Somebody has said that, in Russia, I think 15 percent of the population is the largest ever given; some of them say it is as small as 3 percent of the Russian population are Communists, yet they are holding a—I started to say "an iron hand," but I will say an iron heel to hold the people of that country. So it is not strange that a minority in the Democratic Party, who were very active in precinct work and all that should get control of the party, particularly as they were the leaders of the ILWU, the big labor organization in the Territory, which controls many, many votes.

Senator JOHNSTON. Judge, what they really do is to get people, who don't even know that they are acting and working with the Communists at all, to go along with them; isn't that true?

Judge STAINBACK. There is no question about that. And just to show you what must we do—"Goals acceptable to liberals, as well as radical elements, in Hawaii, should be set up and striven for (on the side)." You see, they use liberal goals.

Many years ago I advocated setting up a board which could buy or condemn land to sell to people without land, without homes. Up to the last few years none of the plantation laborers could own their own homes—none of them. Now, I agitated around here, 2 or 3 sessions, never got very far, most everyone was against me, real-estate agents and all, finally Governor King, then Delegate, did come over to my side. And I noticed I got the Communists on my side.

Well, you see, they adopt liberal procedure on the side. And that's where they get their people who go along with them, sympathetic with them. They favor, say, this ownership of homes. "Why shouldn't I go along? That is what I favor."

You see, they are very shrewd people. So you see they use liberal movements to attack the fringe of people who are not Communists, who are far removed from Communists, but go along because they stir up a lot of agitation.

Senator JOHNSON. So in our fight against communism we have to watch our step so that the—and at least give the people some benefit along the line, in order to keep the Communists from picking that up and making use of that?

Judge STAINBACK. Well, I believe that—I think I'm a liberal and I think that one of the greatest menaces to America is the use of liberal

documents by the Communists "on the side," as they say, to get the support for their candidates and their tools, the people that they use. If they came right out "We want Communists to overthrow this Government," they wouldn't get very far. That's the subtlety of their work, their underground work. Just as they have seized most of Eastern Europe without firing a shot, using their underground methods to work.

Mr. MORRIS. Judge, did the Communists make any effort to have you removed as Governor of the Territory?

Judge STAINBACK. I might say they made more than efforts.

I just read that pamphlet they used in San Francisco in 1949. About a year before my term expired, Victor Riesel, whom most of you have read about—

Mr. MORRIS. He has been a witness before this committee, Judge.

Judge STAINBACK. As being attacked by this man who threw acid into his eyes, in my mind was, and probably still is, a man with the greatest knowledge of Communist infiltration into labor in the United States. I don't know where he got all of his information, but he certainly had a lot of it.

Now, in February 1950—my term expired in August 1950, my second appointment, my second appointment as Governor, Victor Riesel wrote an article which appeared as his column, Inside Labor, in a number of syndicated papers, and the Daily Mirror on Wednesday, February 15, 1950, dated Washington, February 14. He writes quite a column. About that time I think is when Murray was kicking the Communists out of his CIO. He says:

The startling news here—

that's Washington—

is not that the Communists are being booted enthusiastically out of the CIO, but that Communists still inside CIO have sufficient power left over to take over much of the government of Hawaii. The startling news is not that the office workers, government employees, school cabinet, tobacco pickers, copper smelters, iron diggers, are being dumped by Philip Murray but that Murray's arrogant 'Arry Bridges—

he omits the "H"—

has enough power to influence a number of men, any one of whom may be the next Hawaiian Governor.

Unless this column can convince President Truman, when it comes across his desk, that he is about to get some queer advice from Hawaiian "Democrats"—the word "Democrats" in quotation marks—

many of whom are card-holding Communist Party members, on who shall run that great food basket, that vast naval and military airbase after August 1.

Here is the story, which is about a small but well-informed group here, all of which can be corroborated by Army and Navy intelligence officers in Hawaii right now.

For several years Gov. Ingram M. Stainback has been one of the country's most sophisticated and intelligent opponents of Communist activities who were trying to infiltrate Hawaii and the Democratic Party there by district 13 of the Communist Party, headquarters in San Francisco, as far back as 1937.

Mr. Stainback has watched and tried to counter every move of Harry Bridges' most successful lieutenant, Jack Hall, who moved into the islands in 1937, after being trained secretly in San Francisco. Hall married Yoshigo Ogawa, an American citizen of Japanese ancestry, and settled there, eventually opening CIO longshoremen's headquarters on pier 11 and actually becoming a member of the Honolulu Police Commission.

I'm guilty.

Nice work, if you can get it, if you are a Communist, as House and Senate committees say Hall is.

The result of Stainback's enmity against the Hall crowd has been an unusually effective smear campaign, so quietly and effectively has this leftist lobby worked that he has convinced certain groups to put on Truman's desk the recommendation that Governor Stainback not be reappointed next August. Instead, he is to be "kicked upstairs" to the chief justiceship of the Hawaiian Supreme Court, to replace a jurist who retires June 1.

With Stainback blocked out and tied securely to a spot where judicial conduct prohibits political activity, the Communist apparatus, which, according to recent Senate investigation, controls much of the Democratic Party machinery in the islands, will push several men as candidates to succeed the outgoing Governor. Those names have already been placed before the influential circles here, which are in position to make recommendations to the President.

The mayor of Honolulu is certainly no Communist, but he is a trusting and frequently fatigued fellow of 78 or 79, who often leaves much of his work in that pivotal Pacific city to a chap called W. K. Bassett, a gentleman of odd literary proclivities.

Basset is Mayor Wilson's executive assistant. But Bassett is no native nor early comer to the land of leis, guitars, and Pearl Harbor. Before this writing man, for some peculiar reason, buried his literary soul in the civil service of an island Territory, he helped the Communist-loving Ella Winters and others of the cult publish the pro-Communist Pacific Weekly in Mount Carmel, Calif.

Suddenly Bassett appears in Hawaii, after the pro-Communists had seized much of the Democratic Party there, and becomes top aid to Mayor Wilson. But, so as not to lose the literary touch, he writes for the Honolulu Record which, if read aloud to you, might give you the impression you were listening to sections of the mainland's Daily Worker.

Then there are protests to Mayor Wilson, and he says to W. K.—cut it out. So, W. K. appeases the chief by ending his long literary contributions last June. Anyway, he's too busy helping to run Honolulu; his time is fully occupied. Now Mayor Wilson is one of those being pushed for Governor by "Arry" Bridges' boys in the islands, and they're not too concerned about staying inside CIO.

They may walk out next month anyway—their horizons are farflung.

That was 16 months before my term ended.

Mr. MORRIS. Now, Judge Stainback, did your knowledge of the facts here, as Governor of the islands from 1942 to this particular time of this publication, which was 1951, did that square with the article that you have just read into our record?

Judge STAINBACK. Yes.

Mr. MORRIS. Your understanding of the situation and your experience with the situation with respect to Communists, did that square with what Mr. Riesel has described the situation to be, in the letter that you have just read into the record?

Judge STAINBACK. There is no question about that. They were very active. Of course, they were not the only ones, because there were others with personal ambition and others who disliked me in general. They were united pretty fully though and a very powerful bunch.

Mr. MORRIS. Was that, in your opinion, Judge, an accurate representation of the situation here on the islands, that description by Mr. Riesel which you have just read into the record?

Judge STAINBACK. I think it is, yes. I might say also—

Mr. MORRIS. Judge, before we begin that, I am notified by the short-hand reporter that we have got to take a stop here because the first hour is up. He takes a running record and his machine runs just 1 hour and we have to stop to rewind it.

A 2-minute recess, Mr. Chairman?

Senator JOHNSTON. A 2-minute recess.

(A short recess was taken.)

Senator JOHNSTON. The committee will resume the hearing.

Mr. MORRIS. Now, Judge, what was the date of this last letter that you read into the record? What was the date of Mr. Riesel's column?

Judge STAINBACK. What was the date of—

Mr. MORRIS. Of Riesel's column?

Judge STAINBACK. February 15, I think.

Mr. MORRIS. 1951?

Judge STAINBACK. 1950.

Mr. MORRIS. 1950.

Judge STAINBACK. Yes. That was more than a year before I left office.

Can you hear this now? Is it better?

Mr. MORRIS. Yes, I can hear it. Yes.

Now, what happened after that, Judge?

Judge STAINBACK. Well, Senator Butler of Nebraska—not of Maryland—was out here. He also reported somewhat similarly, that Hawaii was a base of Communist operations, and a long discussion of the Communists, and among other things he said, "The immediate objectives of the ILWU-Communist Party conspiracy in Hawaii are, among several others, removal of Gov. Ingram M. Stainback, to be replaced by a Governor named by the Communist high command in Hawaii." And then he has other statements on that.

Senator BUTLER. Mr. Chairman, may I make an observation here? That was Hugh Butler of Nebraska.

Judge STAINBACK. Yes.

Senator BUTLER. This is my first visit to the islands.

Judge STAINBACK. Yes. A very fine Butler. I am sure they all are. He was a very good friend of Hawaii and a very good friend of mine.

Senator WELKER. And a very good friend of the islands.

Judge STAINBACK. The last time I saw him was in Washington, when I testified, and he came up and put his arm around me and said, "I hope we are still good friends."

I said, "Yes, Senator; although you switched your position and I switched my position, we are still good friends."

There were other communications in which this is recognized. Senator Pat McCarran, a very good friend of mine, wrote to Oscar Chapman. He said:

A careful study made by me personally, while in the Hawaiian Islands some 2 years ago—

This is dated January 1951—

convinced me that the Territory was heavily impregnated with Communist cells and active Communist workers. About the most complete Communist organization that I have yet encountered, I have found to exist in the Hawaiian Islands. It is not at all strange to find that this group was actively working to embarrass and if possible defeat the reappointment of Governor Stainback. They are undoubtedly still at it.

He goes on and calls attention also to Senator Butler's report on the activities of the Communists and their determination to get their enemy No. 1 out of the Governor's position.

Mr. MORRIS. One year later, you said, Judge, you were not reappointed; is that right?

Judge STAINBACK. No, I was not; I was placed on the supreme court.

Senator WELKER. In other words you went upstairs?

Judge STAINBACK. Kicked upstairs.

Mr. MORRIS. Judge, did you have any other firsthand experience with Communists on the islands, such as you have described here today?

Judge STAINBACK. I think that is all I remember at this time. Of course—

Mr. MORRIS. Judge, you are still a very observing member of the community, are you not, sir?

Judge STAINBACK. I think probably some of the others could answer that better than I, but I try to be.

Mr. MORRIS. I wonder if you could tell us whether or not these people whom General Hull told you about, the people you encountered, whether or not they still exercise any influence on the community today?

Judge STAINBACK. I am confident that they do, through their control of the labor, the large labor organization. It is very unfortunate that they control. At one time one of the members in Hilo attempted to break away from Communist control, but he was quickly squelched and properly punished, I think. So we are putting up with this Communist control. They are still active in politics, I understand, although I am no longer active in any respect, since I've been on the bench. I note by the Star-Bulletin, last election, it stated that Hawaii elected 26 out of 28 endorsed by the ILWU, I believe. I noticed 2 years ago, in the county elections here, they are supposed to have endorsed 7 of the supervisors and 6 of them were elected. And one of them that they didn't endorse, who was elected, was a former Communist, a Japanese boy who disavowed them, and came clean, and he was elected in spite of the Communist opposition. I say ILWU, a Communist-controlled union, is more powerful, of course, on the outside islands, than they are in Honolulu, because a larger percentage of the voters are plantation workers. Here we have a large population that are not members of the ILWU. We have a fairly large AFL bunch here in the Territory, carpenters and people of that type workers, and we also have a much larger white-collar population, and their influence is not as great on this island as it is on the other islands. But I think they still have considerable influence.

I note in the last election they sent around a questionnaire, one of them was to repeal this dock seizure, as they prefer to call it. "The Stainback Strikebreaking Act." I don't know what the reply of the various candidates was; I didn't keep up with that. I just noticed that was one of the questions asked. "Will you repeal this act?" They seem to be intent on getting that repealed. I believe an act was introduced at the last session of the legislature to repeal that, but it did not pass. To my mind, that's absolutely necessary to preserve the lifeline of the Territory. It is nothing unusual to have a public utility, which is necessary to the health and welfare of the people, put in a position where it may be seized and operated and strike prevented. Fifteen States, I think, have similar laws. I remember one of them is Virginia and, I have forgotten, various other States, but I went into it very carefully at the time I sent my recommendation down to the legislature, and I believe pointed out there was such a law in various States, and that to us there was no public utility more important than to preserve transportation to the mainland. Our jugular vein, you

might say. If they cut that, it would be fatal. And I don't doubt that the next legislature will be faced with an attempt to repeal the "Stainback strike laws," as they call them.

Mr. MORRIS. Thank you very much, Judge. That, I think, covers the area that we have covered in executive session, Mr. Chairman.

As counsel for the committee, I had a session with Judge Stainback and was able to go over with him the area of the testimony. I think, sir, we have now covered that, and unless the Senators have some questions to ask the witness—

Senator JOHNSTON. Any questions?

Senator WELKER. I would like to ask one question.

Did you say that 26 of the 28 members elected to the Territorial legislature—

Judge STAINBACK. I don't know if it was the Territorial legislative body. Here is a Star-Bulletin reporter here. I presume he is responsible for it. Twenty-six out of twenty-eight endorsed. Whether they were at the county level or members of the legislature, I don't know. I just saw the—

Senator WELKER. Twenty-six of the twenty-eight were successful?

Judge STAINBACK. That they were endorsed by the ILWU.

Senator WELKER. Were endorsed by the ILWU.

Judge STAINBACK. Yes. That's the information I got from the newspaper. Mr. Rose nodded his head in affirmation. He is very familiar with politics and politicians.

Senator JOHNSTON. Any other questions?

We certainly thank you, Judge, for coming before us this morning and giving this testimony.

Judge STAINBACK. Thank you, Senator. I hope it serves some good purpose.

Senator JOHNSTON. The next witness will be called.

Mr. MORRIS. The next witness is Mr. Yagi. Mr. Yagi, come forward, please.

Senator JOHNSTON. Mr. Yagi.

Mr. MORRIS. Thank you, Judge Stainback; thank you very much.

Judge STAINBACK. Thank you.

Senator JOHNSTON. Mr. Yagi, will you please raise your right hand.

Do you solemnly swear that the evidence you give before this sub-committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. YAGI. I do.

Senator JOHNSTON. Have a seat.

TESTIMONY OF THOMAS SUKICHI YAGI

Mr. YAGI. Mr. Chairman, on the outset, I wish to have the—not to be televised and also—

Senator JOHNSTON. What?

Mr. YAGI. Not to be televised and—

Senator JOHNSTON. No television on.

Mr. YAGI. And wish to have the lights out.

Senator WELKER. Do you want us to work in the dark?

Mr. MORRIS. Mr. Chairman, may I at this time, inasmuch as much of the evidence that we have analyzed to date bears on Communist activity within the ILWU, with your permission, sir, I would like to

read into the record at this time some of the general conclusions of the Report of the Commission on Subversive Activities to the Legislature of the Territory of Hawaii.

This commission has been identified by witnesses who have appeared here.

And this is the report submitted by the commission, William B. Stephenson, chairman, Ernest B. DeSilva of Hawaii, Wilford J. Holmes, of Oahu, George P. Kimball of Oahu, Thomas P. King of Kauai, Taro Tsuenaga of Oahu, and Raymond R. Lyons—Admiral Raymond R. Lyons, of Maui, vice chairman.

And I would like to read—

Senator JOHNSTON. What was the date of that report?

Mr. MORRIS. That was February 28, 1955. February 28, 1955. I read from page 65, under the heading "Communist domination of the ILWU."

In its 1953 report this commission devoted a lengthy section to the ILWU, detailing the evidence that this union was not only Communist-controlled but that it was "the most effective vehicle for the implementation of the program of the Communist Party in Hawaii." Nothing has occurred since the publication of that report to change this commission's conclusion. If anything, Communist activities since 1952 have become even more closely identified with the ILWU.

Between 1945 and 1950 they have developed a number of Communist-front organizations and Communists had attempted, sometimes successfully, to infiltrate others. Because of public exposure of their Communist taint, these organizations have become either passive or defunct. Communist activity in Hawaii now appears to be centered almost entirely around the ILWU, its satellite union, the UPW and the Honolulu Record, a weekly newspaper largely subsidized by the ILWU.

The ILWU and the UPW are but 2 of the nearly 60 unions and employee organizations in Hawaii. The fact is significant when one realizes that, among the unions, only the ILWU and the UPW have been reported by this commission to be dominated by Communist leaders, and only the ILWU and UPW have charged the commission with union busting. Unfortunately, many good citizens of Hawaii still have doubts that the ILWU is led by Communists. It is therefore pertinent to marshal some of the evidence on this issue.

The ILWU was born a Communist-dominated union, has remained so ever since.

Now, there are other sections here, Senator, and maybe I will wait until later in the course of this hearing to put those into the record.

Senator JOHNSTON. Just for the information of the general public and also in order that it may be called to the attention of the Attorney General, has the Attorney General ever put this union on its subversive list?

Mr. MORRIS. I am not prepared to answer that question, Senator. I will have the answer for you at the next session.

Senator JOHNSTON. Proceed. The witness may proceed.

Mr. MORRIS. Now, Mr. Yagi, will you give your full name and address to the reporter?

Mr. YAGI. Thomas Sukichi Yagi; Waihee, Maui.

Mr. MORRIS. Now you reside on Maui, one of the neighboring islands; do you not?

Mr. YAGI. Yes.

Mr. MORRIS. Are you the divisional director of the International Longshoremen's and Warehousemen's Union on Maui?

(The witness consults with his attorneys.)

Mr. YAGI. I refuse to answer that question on the basis of the fifth amendment.

Senator WELKER. Now, Mr. Chairman, I want to make this observation.

Senator JOHNSTON. You may.

Senator WELKER. I had the witness in executive session a while ago. I hope I am on very friendly terms with counsel who represent him. I appreciate the fact that they have a job to do. But they have been admonished heretofore that the witness is to ask them for advice, not lean over there and receive it.

You never uttered one audible or inaudible word when you got over there to get your answer. Now, may I admonish you once again, when you need help from counsel, you ask them, and don't, please, embarrass your counsel. That's what it does; it doesn't do anything but embarrass them. And it is very simple procedure if you will just lean over and say, "May I consult with you?"

Do you understand that?

Senator JOHNSTON. As chairman, I want to inform the witness that he has a right to let the lawyers inform him, after he has requested them. Of course, he is not on the stand just for the lawyer to answer the questions. You are on the stand to answer the questions.

Proceed.

Mr. MORRIS. Now, Mr. Chairman, we do not have Mr. Mandel here; in the first place, Mr. Mandel is not here, nor is the September 1956 issue of the Department of Labor and Industrial Relations, from which he was reading yesterday, available. As I said, Senator, they are locked up in the files downstairs and only Mr. Mandel has the key. So the next best evidence I can get, I can get the March 1956 issue of the same book, but my general understanding of the situation is that the conditions described herein remain true today.

Mr. Thomas S. Yagi is a director of the Maui County division of the ILWU.

Senator JOHNSTON. I want to inform counsel that if he has other additional information bearing on this subject that is now locked up, when it becomes available, if he wants to, he can put such parts in the record to clarify as he sees fit.

Mr. MORRIS. Yes, sir.

Now you are, therefore, the ranking ILWU official on the island of Maui, are you not, Mr. Yagi?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. When did you last meet Charles Fujimoto?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator JOHNSTON. When you say, "Same answer," you mean that you are refusing to answer, availing yourself of the fifth amendment, and you by doing so say that you might incriminate yourself, is that true?

(The witness consults with his counsel.)

Mr. YAGI. I am relying on the fifth amendment, and the fifth amendment says that I don't have to be a witness against myself.

Mr. MORRIS. Are you a Communist now, Mr. Yagi?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. Have you attended Communist meetings within the last 6 months?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. Now how often have you met Charles Fujimoto in the last 6 months?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. How often have you met with Jack Hall within the last 6 months?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. How often have you met John Reinecke in the last 6 months?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. How often have you met Mrs. Charles Fujimoto in the last 6 months?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. Mr. Chairman, we have received information that the witness here today pledged \$7,000 on behalf of Charles Fujimoto, in connection with his appeal before the United States Ninth Circuit Court, on August 5, 1953.

Did you pledge \$7,000 of your own property on behalf of Mr. Fujimoto?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator JOHNSTON. I think it would be well to put in there what the trial was about, just to let the public know what it was.

Mr. MORRIS. Senator, Charles Fujimoto was one of the seven defendants in the large Smith Act prosecution, which was held here on the islands in 1953.

What was your answer, Mr. Yagi? To that last question. Did you pledge \$7,000?

Mr. YAGI. Same answer.

Mr. MORRIS. That is, you refuse to answer under your claim of privilege?

Mr. YAGI. Yes.

Mr. MORRIS. Now have you had Communist Party training in California?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. Where were you born, Mr. Yagi?

(The witness consults with his counsel.)

Mr. YAGI. Waihee, Maui.

Mr. MORRIS. You were born in Maui. How often have you gone to California?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. You will not deny our information then, will you, Mr. Yagi, that you have attended classes of the California Labor School in California?

(The witness consults with his counsel.)

Mr. YAGI. The same answer.

Mr. MORRIS. In fact, you had, at one time, a 5-week training program there, did you not, sir?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. Mr. Chairman.

You took the fifth amendment as to whether or not you attended a labor school in California. Have you ever attended any school?

(The witness consults with his counsel.)

Mr. YAGI. I have attended grade schools in Maui.

Senator WELKER. Very well. Now that you have opened up the subject matter that you have attended school, I assume that we are permitted under the law to interrogate you on what schools you attended. Now will you tell us fully and completely the schools you have attended?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. Did you go to the first grade?

(The witness consults with his counsel.)

Mr. YAGI. I went through the 10th grade.

Senator WELKER. You went through the 10th grade. Now what other schools did you attend, if any?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. Same answer, of the fifth amendment.

Now, Mr. Chairman, I ask you to order and direct this witness, under the rules of this committee, to answer the question whether or not he attended a labor school in the State of California, upon the ground and for the reason that the witness has opened up the subject matter he has attended schools, and it is perfectly within the right of this committee to find out what schools he has attended. He cannot turn it off and start it again. He has opened the subject matter. Now I think you should order him and direct him to answer the question, and if not, it will be a subject matter for contempt to be discussed in the Senate of the United States.

Senator JOHNSTON. I order you to answer the question of the Senator. What schools, giving what schools you have attended, and what period of time you attended those schools. So you may answer those questions; you must.

(The witness consults with his counsel.)

Mr. YAGI. I went to the 10th grade on Maui, and beyond that, same answer.

Senator WELKER. Why don't you want to tell us any other schools you attended?

(The witness consults with his counsel.)

Mr. YAGI. The same answer.

Senator WELKER. You are answering, then, if you told us any other schools you attended, a truthful answer would tend to make you bear witness against yourself or to possibly incriminate you, is that a fact?

(The witness consults with his counsel.)

Mr. YAGI. I rely on the fifth amendment of the United States and I don't have to—

Senator JOHNSON. I want to warn the witness that through his failure to answer the question asked here, he may be subject in the future to appear and give answer to it, in a court.

Mr. MORRIS. Mr. Chairman, may I—

Senator WELKER. Now just a minute.

Mr. MORRIS. I am sorry, Senator.

Senator WELKER. Tell me, Mr. Witness, what would be embarrassing about your telling us whatever schools you attended? Is there something wrong with attending a labor school or forestry school or any other sort of a school?

Now let's be fair, let's get down on a level and tell us. Why don't you tell us the truth about this matter?

(The witness consults with his counsel.)

Mr. YAGI. This is not a question of embarrassment. I am standing on the fifth amendment.

Senator WELKER. I know, but will you tell me why you are standing on it? Do you think that if you attended a labor school—many, many thousands of people have attended labor schools, I assume. Is there something that might tend to incriminate you if you said that you did attend one?

Senator JOHNSTON. What do you think, for the good of your Nation, for the good of your organization even, you have derived by not answering these questions?

(The witness consults with his counsel.)

Mr. YAGI. Frankly, I do not understand what question is before me.

Senator WELKER. I asked you the very simple question: What possibly could happen to you if you told this committee truthfully that you attended a labor school in California? Won't you tell us that, Mr. Witness?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. "Same answer." Have you ever been in California?

Mr. YAGI. Same answer.

Senator WELKER. You are afraid that if you told this committee that you had been on the mainland, in the State of California, that that might tend to incriminate you?

(The witness consults with his attorneys.)

Mr. YAGI. Same answer.

Senator WELKER. Did you ever go over there for—on an occasion other than something that might tend to incriminate you?

Mr. YAGI. Same answer.

Senator WELKER. Would you tell whether you have been there once, twice; will you tell me whether you have ever been out of the island?

(The witness consults with his counsel.)

Senator WELKER. Did you ever go sailing out in the ocean?

(The witness consults with his counsel.)

Mr. YAGI. On little boats, yes.

Senator WELKER. All right. While on little boats, did you ever go to California?

Mr. YAGI. Same answer.

Senator WELKER. You never have answered me that. I asked you whether or not you have ever sailed. Since you have admitted now

that you have been sailing, whether they have been little or big. We came over here on a little one. Now, I want to know whether or not that ship took you to California.

(The witness consults with his counsel.)

Mr. YAGI. The same answer.

Senator WELKER. How far out in the ocean did you sail?

(The witness consults with his counsel.)

Mr. YAGI. The same answer.

Senator WELKER. One mile, a thousand miles, a hundred miles; tell me that, won't you, please?

Mr. YAGI. Same answer.

Senator WELKER. Now, with respect to a question that I'm confused on, asked you by counsel, as to whether or not you had ever seen Jack Hall. Is it a crime for you to see anybody?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. Did you see Jack Hall here in the demonstration yesterday, in this palace?

Mr. YAGI. Same answer.

Senator WELKER. I saw you here, didn't I, yesterday?

(The witness consults with his counsel.)

Mr. YAGI. I don't know.

Senator WELKER. I do. I know that I did. And I can't see that that might tend to incriminate me, by seeing you. Now, certainly, and I believe your able counsel will agree with me that if you happened to see Jack Hall here yesterday, in the hall, that wouldn't tend to incriminate you. Now, won't you answer us that?

Mr. YAGI. Same answer.

Senator WELKER. Why, it's absolutely utterly silly for you not to tell us that you have seen a particular individual. If you were in a conspiracy with him, or something like that, it would be different, but if you happen to pass him on the street or see him, I can't see for the life of me how that might tend to incriminate you, Mr. Witness.

You still want to take the fifth—

Mr. YAGI. Same answer.

Senator WELKER. "Same answer." Who have you talked with about your testimony before coming here?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. You didn't talk to your two able attorneys?

Mr. YAGI. Same answer.

Senator WELKER. Oh, come about now. Certainly, that isn't a crime to talk to your fine attorneys. Did you have a meeting and discuss your testimony with anyone?

Mr. YAGI. Same answer.

Senator WELKER. As a matter of fact, you received a document, mimeographed document, telling you exactly what to do and what to say when you appeared on the witness stand here, didn't you?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. Did you receive any document, telling you what you should do should you be subpoenaed before this committee?

Mr. YAGI. Same answer.

Senator WELKER. If I were to show you a document, would it be the same answer, too?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. Let me ask you this. Were you informed by any person or persons, prior to your appearing here on the witness stand, do not answer questions propounded to you by the committee or counsel thereof?

Mr. YAGI. Same answer.

Senator WELKER. Have you talked to anybody about this case other than—just tell me, did you talk to your wife?

Mr. YAGI. Same answer.

Senator WELKER. Did you ask anybody about the subpoena when you received it, what it meant?

Mr. YAGI. Same answer.

Senator WELKER. Now, we're going to have "The same answer" with you for a long time, I am afraid. You are going to be answering that "Same answer" for some little time.

What would be your opinion as to whether or not the hundreds of people who talked to Jack Hall yesterday might have incriminated themselves?

Mr. YAGI. Same answer.

Senator WELKER. You don't want to give me the benefit even of your opinion?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. I don't want to set a record with you on the fifth amendment, so we will let it go back now to counsel.

Senator JOHNSTON. Witness is with the counsel, Mr. Morris.

Mr. MORRIS. Mr. Yagi, have you been a member of the executive board of the Communist Party?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. Did you meet as a member of the executive board of the Communist Party at the home of Jack Hall?

Mr. YAGI. Same answer.

Mr. MORRIS. Now, Mr. Chairman, we have again, from the report that I have referred to previously, of the Commission on Subversive Activities, dated February 28, 1955, on page 81, a statement:

Another indication of Communist control of the ILWU is found in an analysis of the officers and directors of the ILWU Memorial Association. This association was incorporated in 1950 as a nonprofit organization "for fraternal, civic, political, and economic purposes." Its principal function seems to be to own the building and land used by the ILWU as its headquarters.

Now, the following is a list of the officers and directors and it is dated December 31, 1951. It then proceeds to give the names of the president, the vice president, the secretary, the treasurer, and six directors. One of the directors is the witness here, one of the current directors, and then it goes on to give the current list of officers and directors of the ILWU Memorial Association, and they are again president, vice president, secretary, treasurer, sergeant at arms, and then it gives 5 directors, and 1 of them is Thomas Yagi, and the report itself in mentioning you says, "An identified Communist." It is on page 82 of the report.

Now, are you, Mr. Yagi (1) an identified Communist?
(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Mr. MORRIS. Are you a director of the ILWU Memorial Association?

Mr. YAGI. Same answer.

Mr. MORRIS. As a director of the ILWU Memorial Association, do you know that the primary function of that organization appears to be to own the building and the land used by the ILWU and its headquarters?

Mr. YAGI. Same answer.

Senator WELKER. Do you mean that the Memorial Association has to do only with the opening of the building?

Mr. MORRIS. That's the report, that the commission so found, Senator.

Senator WELKER. Could you tell me whether or not the association, the Memorial Association, was dedicated to the memory of Joe Stalin or Lenin, or anybody like that?

Mr. YAGI. Same answer.

Senator WELKER. And what did you have to say when counsel interrogated you and stated that you were listed as an identified Communist?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. Now, with respect to this Memorial Association and its building and ground, would you tell the committee where, if you know, you received any money to build that building, buy land, and to do other memorial things that up to now you have refused to tell me about?

Mr. YAGI. Same answer.

Senator WELKER. Did you receive any from the Communist Party International?

Mr. YAGI. Same answer.

Senator WELKER. Do you sing songs there at the Memorial Association when you meet?

Mr. YAGI. Same answer.

Senator WELKER. Are you familiar with the song "The Workers of the World Unite"?

Mr. YAGI. Same answer.

Senator WELKER. Have you taken any subscriptions to any newspapers?

Mr. YAGI. Same answer.

Senator WELKER. Don't you read some of our fine publications here in the city of Honolulu and on your own island?

Mr. YAGI. Same answer.

Senator WELKER. Have you ever taken a subscription in the People's Daily World?

Mr. YAGI. Same answer.

Senator WELKER. Do you know what the People's Daily World is?

Mr. YAGI. Same answer.

Senator WELKER. You know, as a matter of fact, that the People's Daily World is the official Communist publication for the west coast, don't you?

Mr. YAGI. Same answer.

Senator WELKER. Comparable to the Daily Worker on the east coast?

Mr. YAGI. Same answer.

Senator WELKER. Well, how do you know all these things?

Mr. YAGI. Same answer.

Senator WELKER. Will you tell the workers of your union, if you belong to a union, would you tell them that you would have to—if they asked you the questions, instead of the Senator from Idaho or this committee, would you take the fifth amendment before them?

Mr. YAGI. Same answer.

Senator WELKER. In other words, you wouldn't be fair to the workers who are out there working and paying dues to a union that you might belong to?

Mr. YAGI. Same answer.

Senator JOHNSTON. Are you an American?

Mr. YAGI. I beg your pardon?

Senator JOHNSTON. Are you an American?

(The witness consults with his counsel.)

Mr. YAGI. Yes, I am.

Senator JOHNSTON. Do you believe in the American principles?

Mr. YAGI. Yes, definitely.

Senator JOHNSTON. You are against Communists, then?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. May I ask a question, Mr. Chairman?

Mr. Witness, we have thousands and thousands of members of the armed services here on this beautiful island and on your island. What would you think, since you have told Chairman Johnston that you are an American, if one of those men in the uniform of the United States Army or Navy, Marine Corps, Air Force, would take the fifth amendment when he were asked whether or not he was a member of the Communist Party? What would you think, Mr. Witness? Would you think he would be a very good member of our armed services; would you think he would be a very good American?

(The witness consults with his counsel.)

Mr. YAGI. Same answer.

Senator WELKER. I wonder if you have any pamphlet distributed to the workers of this area and your area about your testimony here?

Mr. YAGI. Same answer.

Senator WELKER. You won't run a three-quarter page ad on your testimony, will you?

Mr. YAGI. Same answer.

Senator WELKER. Did you object to the ad that appeared in the paper the day before we started our hearing here?

Mr. YAGI. Same answer.

Mr. WELKER. That is all.

Mr. MORRIS. We have one more witness, Senator.

Senator JOHNSTON. The witness is excused at the present time; we may need him later.

Mr. ANDERSEN. This witness lives on an outside island, which is quite a ways from here.

Senator WELKER. Not near California?

Mr. ANDERSEN. It is quite a little airplane trip from here.

Mr. MORRIS. Senator, as I said before, we are handicapped this morning by the fact that we do not have access to our files. In the event that it may be necessary, Senator, to recall him, I will call Mr. Andersen and give him ample notice so that he might bring this witness back from the other island.

Senator WELKER. May I ask a question? How long would it take for him to go home, Mr. Andersen?

Mr. ANDERSEN. I imagine it is about three-quarters of an hour flight. Isn't it?

Senator WELKER. I think in fairness he should be permitted to go to his island, under subpnea, and I am sure counsel will bring him back at any time we want him.

Mr. ANDERSEN. And may this apply also to the next witness?

Senator JOHNSTON. He is temporarily excused, with that understanding.

Mr. ANDERSEN. We will be very happy to cooperate.

Senator JOHNSTON. The attorneys will have him back here if we need him.

Mr. MORRIS. That will also apply to the next witness, if we need him.

Senator JOHNSTON. And it will be the same with the next witness. As I understand, he lives out on another island.

Mr. MORRIS. Mr. Chairman, now that we've gotten onto the subject of those Communists who apparently are associated with the ILWU, I would like the record to show that there are some people whom we have decided not to subpnea here this morning. For instance, Jack Hall. Now, Jack Hall and certain other individuals convicted in the Smith Act trial have not been subpeneaed, because we want to avoid any possibility of prejudicing their rights in connection with their appeal. And for that reason some of these people have not been subpeneaed.

Now, the last witness we have scheduled for this morning is Mr. Frank Silva.

Senator JOHNSTON. Mr. Silva, raise your right hand and be sworn. Do you solemnly swear that the evidence you give before this sub-committee to be the truth, the whole truth, and nothing but the truth, so help you, God?

TESTIMONY OF FRANK SILVA

Mr. SILVA. I do. Sir, may I ask you a question of privilege? I would like to have this light turned off because it hits me in the eye, and also the television camera turned off.

Mr. MORRIS. There is no television camera here, Mr. Silva.

Mr. SILVA. How about the light; could we have it turned off? It is a strong glare.

Senator WELKER. Well, now, just a minute. If it is hurting you, what do you think it is doing to us up here?

Mr. SILVA. I am just asking as a matter of privilege.

Senator WELKER. My heavens! We want to be as fair to you as we can, but you are asking an awful lot and you are giving very little.

Senator JOHNSTON. It is really turned on us more than it is turned on you, I think. We can turn it a little more around. Turn it just a

little bit around this way. We don't object to it, naturally, since the light is not hurting anybody. That is fine. It is a little off of him and more on us, so that's perfectly all right.

Mr. MORRIS. Mr. Chairman, may I read again, in connection with the 1955 Report of the Commission, again on the subject of the ILWU, and this time by way of stating a conclusion?

In summary, the evidence that the ILWU was Communist dominated includes the following points: (a) Communist or Communist-trained labor leaders hold key positions in the union and among its paid employees. There is detailed testimony by former Communists and former ILWU leaders that the ILWU is Communist controlled. The ILWU supports Communist publications, the ILWU supports Communist-front organizations, the ILWU supports Communist causes. There is machinery for the ILWU leadership to submit disputes between itself and the Communist Party and finally to Communist Party headquarters in New York. (g) The ILWU was expelled from the CIO as a Communist-dominated union in 1950 and neither its leadership nor its policies have changed substantially since then. The ILWU has never taken an official stand critical of the Soviet Union or condemnatory of its policies. (i) The ILWU is the principal instrument for disseminating Communist propaganda in Hawaii. (j) This Commission knows of no policy or action of the ILWU which is contrary to the Communist Party line.

Under the heading "Propaganda" also among "Conclusions":

The ILWU publicity and education department, well supplied with funds, consists of the following activities: (a) The ILWU research department; (b) the ILWU Dispatcher; (c) the ILWU Washington Report; (d) the ILWU educational service, local 142, Hawaii; (e) the ILWU Reporter, local 142, Hawaii; (f) the ILWU public relations department, local 142, Hawaii; subdivisions (1) Japanese language radio broadcasts, (2) English language radio broadcasts, (3) Philippine language radio broadcasts.

According to ILWU reports, the sum of \$199,604.50 was expended to maintain this propaganda apparatus during the year 1953. This sum was itemized as follows.

And there follows an itemization.

Mr. Chairman, I think that particular information is relevant and I think we will have someone, one of the witnesses on Monday whom we can ask some questions about that particular statement.

Senator JOHNSTON. Very well.

Mr. MORRIS. Now, will you give your full name and address to the reporter, Mr. Silva?

Mr. SILVA. My name is Frank Silva—Frank G. Silva.

Mr. MORRIS. And where do you reside, Mr. Silva?

Mr. SILVA. I live on Kauai, T. H.

Mr. MORRIS. And what is your address on Kauai?

Mr. SILVA. Post Office Box 324, Puhi, Kauai.

Mr. MORRIS. Now are you the ranking ILWU representative on that island?

(The witness consults with his counsel.)

Mr. SILVA. I decline to answer on the basis of the fifth amendment.

Mr. MORRIS. In other words, you will not tell this committee whether or not you are the ranking ILWU official on Kauai?

Mr. SILVA. Same answer, sir.

Mr. MORRIS. Are you a Communist, Mr. Silva?

Mr. SILVA. Same answer, sir.

Mr. MORRIS. Have you attended Communist meetings on Kauai?

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Mr. MORRIS. Have you attended Communist meetings here on Oahu?

Mr. SILVA. Same answer.

Mr. MORRIS. Now do you know the ranking UPW official on Kauai; namely, Jackie Rodrigues?

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Mr. MORRIS. Pardon?

Mr. SILVA. Same answer.

Mr. MORRIS. "Same answer." Now are you acquainted with the dismissal of David K. Wong; he was the manager and chief engineer of the county waterworks board until 1955; are you acquainted with that gentleman?

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Mr. MORRIS. Now, did you and Mr. Rodrigues conspire to have that man removed from his position during the year 1955?

Mr. SILVA. Same answer.

Mr. MORRIS. Mr. Chairman, I would like to put into the record a newspaper clipping which indicates that—it is under the heading "Kauai board is criticized for firing water chief." We have received information that the head of the United Public Workers on Kauai and the head of the ILWU on Kauai, which is the witness before here, work very closely together in all their activities there. This clipping indicates—I will read the clipping. This is from Kauai.

SEPTEMBER 27, 1955.—The board of supervisors was under heavy fire today for its abrupt dismissal, without a hearing, Friday, of David K. Wong, manager and chief engineer of the county waterworks board. Republican leaders called the charges oppression and asserted the public is entitled to the facts. They were joined by William Moragne, former chairman of the waterworks board. Wong was fired by a 4 to 2 vote of the board, with no formal charges being brought against him and with no opportunity to be heard. But it was clearly established that the move to fire Wong was directed and pushed by the United Public Workers, a government employees union through its Kauai chief, Jackie Rodrigues.

Now, could you tell us about that episode?

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Mr. MORRIS. Have you been working in close concert with the United Public Workers on Kauai?

Mr. SILVA. Same answer.

Mr. MORRIS. Well, the United Public Workers and the ILWU both have the same office, do they not?

Mr. SILVA. Same answer.

Mr. MORRIS. They certainly do here in Honolulu, do they not?

Mr. SILVA. Same answer.

Mr. MORRIS. Mr. Chairman, may I put the whole clipping into the record?

Senator JOHNSTON. The whole clipping shall become a part of the record.

Mr. MORRIS. And I also have a clipping here, Senator, which is dated a few days later, which indicates that the board of supervisors yesterday refused to reconsider its dismissal of David F. Wong as manager and chief engineer of the county waterworks department.

May that go into the record, too, Senator?

Senator JOHNSTON. That shall go into the record also.

(The clippings referred to above were marked 385 and 385-A and may be found in the subcommittee files.)

Mr. MORRIS. Now, were you formerly the director of the United Farm Equipment Workers?

Mr. SILVA. Same answer, sir.

Mr. MORRIS. You will not tell us whether or not you were formerly the director of the United Farm Equipment Workers of America?

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Mr. MORRIS. Where were you born, Mr. Silva?

Mr. SILVA. Kauai.

Mr. MORRIS. When did you last see Charles Fujimoto?

Mr. SILVA. Same answer.

Mr. MORRIS. Now, the committee has been told of a meeting that took place in the home of Mr. Epstein last Saturday night. The address and everything was mentioned yesterday in the record. Did you attend that particular meeting, Mr. Silva?

Mr. SILVA. Same answer.

Mr. MORRIS. You will not tell us whether or not you were one of the people that attended that meeting?

Mr. SILVA. Same answer.

Mr. MORRIS. Mr. Chairman, in view of the witness' responses, I would say at this time I have no more questions. And I hope, Senator, for all practical purposes we have completed the examination. If, however, on examining the records, which are not available here this morning, there is need of further interrogation, I will give counsel Andersen or Counsel Symonds adequate time for them to bring the witness back.

Senator JOHNSTON. I want the lawyers to understand that; that they will bring him back, like the other witness excused just now; you can get him back on short notice.

Mr. ANDERSEN. It is common practice which is always done, and you have our assurance.

Senator JOHNSTON. He is under subpoena but only to come back after we have notified you.

Mr. ANDERSEN. Yes. Of course.

Senator WELKER. Mr. Witness, you took the fifth amendment when interrogated about whether or not you attended a meeting at the home of Mr. Epstein last Saturday night.

Since you have been here on this island, have you attended any meetings anyplace?

Mr. SILVA. I would like to get advice on that.

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Senator WELKER. Where have you been since you have been here?

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Senator WELKER. Where have you stayed?

Mr. SILVA. Same answer.

Senator WELKER. Do you want to tell us what hotel you live at, what home you live at?

Mr. SILVA. Same answer.

Senator WELKER. You think it might tend to incriminate you if you gave us an honest, truthful statement as to what hotel you lived in?

Mr. SILVA. Same answer.

Senator WELKER. You have been at some hotel or home, have you not?

Mr. SILVA. Same answer.

Senator WELKER. You don't mean to leave the inference with the committee that you haven't been in a home?

Mr. SILVA. Same answer.

Senator WELKER. Now, in all fairness. Now, let's get right down to a level. What in heaven's name can hurt you if you tell us that you have lived at a certain home, that you lived in a certain hotel? Would that tend to incriminate you, you think?

Mr. SILVA. Same answer.

Senator WELKER. As a matter of fact, you have been told exactly what you are going to say to this subcommittee, haven't you?

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Senator WELKER. You didn't need any advice on that, did you?

Mr. SILVA. Same answer.

Senator WELKER. As a matter of fact, you received a mimeographed copy of your orders and your instructions as to what you were to do when you appeared before this subcommittee?

Mr. SILVA. Same answer.

Senator WELKER. Will you admit or will you deny the fact that you have so received those instructions? As to what you were going to say when you appeared before this committee.

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Senator WELKER. I will ask you if it isn't a fact that you in that mimeographed sheet, that some long missed person well known to you sent to this committee, you were told to give your name and your local address only and to take the fifth amendment from thence on. Isn't that a fact?

Mr. SILVA. Same answer.

Senator WELKER. Have you ever been in the State of California?

Mr. SILVA. Same answer.

Senator WELKER. Have you ever been outside of the Islands?

(The witness consults with his counsel.)

Mr. SILVA. Same answer.

Senator WELKER. Now, I want to say this as an observation, Mr. Chairman. I've probably been in the field of criminal law as much as your able counsel, and I probably respect the Bill of Rights as much as anyone in this hearing room, and I can't understand why you will treat this committee as you have by refusing to answer even the simplest questions whatsoever.

Can't you give me some comment on that? I would like to know when I leave this beautiful island just why, just why you have attempted, as all the other witnesses have, to hide behind that privilege granted to you by the Constitution of the United States, and if you were a Communist, the Communists would be the first to destroy that Constitution? Do you have any observation you would like to make on that?

Mr. SILVA. What's the question?

Senator WELKER. Aren't you listening?

Will you read back the question to him?

(The question was read by the reporter.)

Mr. SILVA. The same answer.

Senator WELKER. I am through.

Mr. MORRIS. Mr. Chairman, you have asked me for—as to whether or not the ILWU has ever been on the Attorney General's list. The answer is "No."

I have the spelling here of Mr. Borthwick's name. It is William Borthwick.

And I think that is all, Senator. I have an executive session scheduled for Monday morning at 9 o'clock, followed by the open hearing at 9:30 o'clock. I will require at least one Senator who will appear in the executive session.

Senator JOHNSTON. At what time?

Mr. MORRIS. At 9 and then the open hearing will be at 9:30.

Senator JOHNSTON. I will ask Senator Butler to be at the executive session at 9 o'clock. We will have our regular meeting at 9:30.

The committee is adjourned until that time.

(Whereupon, at 11:44 a. m., the committee was adjourned.)

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SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

(70-10000-10000)

HEARINGS

(1851 BEFORE THE)

SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY
ACT AND OTHER INTERNAL SECURITY LAWS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

EIGHTY-FOURTH CONGRESS

SECOND SESSION

ON

SCOPE OF SOVIET ACTIVITY IN THE
UNITED STATES

DECEMBER 3, 4, 1956

PART 40

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SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

MONDAY, DECEMBER 3, 1956

UNITED STATES SENATE,
SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION
OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL
SECURITY LAWS OF THE COMMITTEE ON THE JUDICIARY,
Honolulu, T. H.

The subcommittee met, pursuant to adjournment, at 9:30 a. m., in the senate chamber, Iolani Palace, Senator Herman Welker presiding.

Present: Senator Eastland, chairman; Senators Watkins, Johnston, Welker, Butler.

Also present: Robert Morris, chief counsel; Benjamin Mandel, research director.

Senator WELKER. The meeting will come to order.

Mr. MORRIS. Senator, before we begin today I would like to make the announcement that our research director, Ben Mandel, is back, and he would like to express publicly the good service that he has received here in the last few days.

Mr. Mandel.

Senator WELKER. Mr. Mandel, we are glad to have you back. I am sure the people of this island are glad you're back. Do you desire to make a statement?

Mr. MANDEL. I desire to express my deepest gratitude to the man responsible for my rescue, W. P. Wing of San Francisco, and to Hazel Minaodani, and Kosei Nitta. I also wish to express my appreciation of the splendid work of the Queens Hospital and the staff of nurses and physicians there that did, I think, a splendid job. [Laughter and prolonged applause.]

Senator WELKER. Mr. Mandel, the chairman, speaking on behalf of the entire committee and staff, is equally thrilled and happy that you are back here with us. We desire to thank all the individuals who saved your life. We desire to thank Queens Hospital, physicians and nurses; it was just the finest work that possibly could be done, and we say "Thank you, all of you."

Now, call your first witness.

Mr. MORRIS. Dr. Phillips, take the stand, please.

Senator WELKER. Raise your right hand and be sworn.

Do you solemnly swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Dr. PHILLIPS. I do.

TESTIMONY OF LYLE G. PHILLIPS

Senator WELKER. Your name, please?

Dr. PHILLIPS. My name is Lyle G. Phillips.

Senator WELKER. What is your occupation or profession?

Dr. PHILLIPS. I am a physician and surgeon.

Senator WELKER. How long have you been so engaged?

Dr. PHILLIPS. 32 years.

Senator WELKER. 32 years. And your residence, please?

Dr. PHILLIPS. 2723 Puuhonua Street, Honolulu.

Senator WELKER. Your witness, counsel.

Mr. MORRIS. Dr. Phillips, you are a native of Wisconsin, are you not?

Dr. PHILLIPS. That's correct.

Mr. MORRIS. And how long have you resided in Hawaii?

Dr. PHILLIPS. Thirty-two years.

Mr. MORRIS. Now, you are the past president, are you not, of the Hawaii Territorial Medical Association?

Dr. PHILLIPS. I am.

Mr. MORRIS. Have you had any other professional experiences such as that, Dr. Phillips?

Dr. PHILLIPS. I am a fellow of the American College of Surgeons.

Mr. MORRIS. Have you been president of the Hawaii Residents Association?

Dr. PHILLIPS. Yes, sir.

Mr. MORRIS. When were you president of the Hawaii Residents Association?

Dr. PHILLIPS. In 1951.

Mr. MORRIS. What is that association called?

Dr. PHILLIPS. The Hawaii Residents Association, also known by the Hawaiian word "Imua," meaning "forward."

Mr. MORRIS. You are now a director of that organization?

Dr. PHILLIPS. I am a member of the board of directors of that organization.

Mr. MORRIS. Now, before joining Imua, did you investigate the purpose of that organization, the purpose and the history of that organization?

Dr. PHILLIPS. Yes, sir; I did. When I was asked to be president of the organization, in 1951, I made a very careful and thorough personal investigation of the organization, and I satisfied myself that it was not against labor, that it wasn't an agent of management, and that it was not politically partisan. I found and was convinced that it was completely and sincerely dedicated to its three-point program. First, to combat communism and all subversive activities; second, to live and work together in racial harmony, and, third, to demonstrate and maintain the American way of life. I am still convinced that the organization is devoting its efforts to those objectives, and nothing else.

Mr. MORRIS. Dr. Phillips, serving as president and a member of the board of directors of this organization, you have not received any pay for that, have you?

Dr. PHILLIPS. No, sir; to the contrary.

Senator BUTLER. Mr. Chairman, may I ask a question?

Senator WELKER. Senator Butler of Maryland.

Senator BUTLER. What is the membership of that organization?

Dr. PHILLIPS. There are somewhere between 1,200 and 1,400 members and contributors, sir, I believe.

Senator BUTLER. Thank you. And you say they are a representative cross-section of the people of this island?

Dr. PHILLIPS. Yes, sir; they are.

Senator BUTLER. Is it confined exclusively to this island?

Dr. PHILLIPS. No, sir. We also have members on all of the other islands, contributors from all of the other islands.

Senator WELKER. The Chair would like to inquire as to whether or not our guests in the rear of the hearing room can hear the witness? If so, raise your hands. Thank you.

Proceed, counsel.

Senator JOHNSTON. Just one question.

Senator WELKER. Senator Johnston.

Senator JOHNSTON. You say "contributors"; how do they contribute?

Dr. PHILLIPS. Each year we have a fund raising campaign to carry on our work, and voluntary contributions are made on that basis.

Senator PHILLIPS. Each member doesn't pay a certain definite amount?

Dr. PHILLIPS. For membership in the organization, it is \$6 per year.

Mr. MORRIS. Now, Dr. Phillips—

Senator WATKINS. May I ask a question?

Senator WELKER. Senator Watkins.

Senator WATKINS. If you do not pay salaries to the board members, how do you spend your money; what do you use that money for?

Dr. PHILLIPS. Our budget this last year was \$54,000. That covered maintaining a staff with an executive secretary, a research director, a librarian, office help; it also paid for our broadcasts that we have 5 nights a week on one of the all-island stations. We also publish and circulate a considerable amount of material, printed material.

Senator WATKINS. That is all distributed and the broadcasts are made under the direction of the association?

Dr. PHILLIPS. That is correct.

Senator WATKINS. After a careful and thorough check of what is to go out?

Dr. PHILLIPS. That is correct. We have a board of directors which, I think, is a very good cross-section of this community, which directs the affairs and policies of the association.

Senator WATKINS. For the purpose of the record, could you give us the names and occupations or professions of the board of directors?

Dr. PHILLIPS. I don't have that right at hand. Our president is Lawrence M. Judd, former Governor of Hawaii; and I would have to—perhaps Mr. Orr, our executive secretary—

Senator WATKINS. If you could supply it for the record and have it inserted—I ask, Mr. Chairman, that that information be submitted later and inserted into the record at this point.

Senator WATKINS. It will be so ordered.

(The list of officials as carried on the organization's letterhead as of November 30, 1956, was marked "Exhibit No. 386," and is as follows:)

EXHIBIT No. 386

HAWAII RESIDENTS' ASSOCIATION

Executive officers: Lawrence M. Judd, president; Brig. Gen. K. J. Fielder (retired), first vice president; Edward N. Yamasaki, second vice president; Mrs. Ronald Q. Smith, secretary; Bishop Trust Co., Ltd., treasurer.

Directors: Conrad K. Akamine; Harold J. Ancill; Paul H. Anderson; Benjamin E. Ayson; Mrs. B. Howell Bond; Mrs. Alice Spalding Bowen; Mrs. Claude Buffett; Ralph B. Cloward, M. D.; Philip M. Corboy, M. D.; Edward M. DeHarne; Mrs. Walter F. Dillingham; Clarence E. Fronk, M. D.; Yim Kai Look, O. D.; Esmond I. Parker; Lyle G. Phillips, M. D.; Guy N. Rothwell; T. G. Singlehurst.

Wynthrop M. Orr, executive vice president; Robert C. Rhoads, research director.

Senator WATKINS. Thank you, Dr. Phillips.

Senator WELKER. Proceed, counsel.

Mr. MORRIS. Dr. Phillips, your work as president and director of Imua, has that required your firsthand attention to events bearing on communism in the islands?

Dr. PHILLIPS. Yes; it has.

Mr. MORRIS. Will you tell us specifically and with as much detail as possible the extent of efforts that you have made in order to acquaint yourself with the Communist situation in Hawaii?

Dr. PHILLIPS. By way of explanation, I would like to make this preliminary remark. That after serving in 1951 as president of Imua, the Hawaii Residents Association, I developed an interest from concern over the future welfare of Hawaii, also concern over national security, which has prompted my continual close association with Imua ever since and active participation in its activities over the past 6 years. I have undertaken to keep fully informed in regard to Communist activities in Hawaii during all of this time.

I have done a tremendous amount of reading reports of the commission on subversive activity, reports of the House and Senate investigative committees; I attended many of the sessions, listened to the evidence, in the trial of Hawaii's seven Communists; I have read fairly regularly such Communist publications as the New York Daily Worker, the People's Daily World, the Honolulu Record; I have kept pretty well posted on ILWU propaganda; listened to McElrath's broadcasts; read The ILWU Dispatcher Reporter; I have also read various writings of David Thompson, ILWU education director, who has been identified by the commission as a Communist; and I have listened to various statements and broadcasts by Henry Epstein, the UPW—United Public Workers—director, also an identified Communist. I have also followed the activities of these people who have been named as Communists by the commission, as reported in the daily press, and also I have followed the daily press in regard to the activities of political candidates and legislators, especially in regard to their relation to known Communists.

Senator BUTLER. May I ask a question, Mr. Chairman.

Senator WELKER. Senator Butler.

Senator BUTLER. Have you, through your experience in that field, found any infiltration into either political party of the islands?

Dr. PHILLIPS. Yes, sir.

Senator BUTLER. To what extent?

Dr. PHILLIPS. May I take that up a little later?

Senator BUTLER. Yes.

Dr. PHILLIPS. I will have something to say on that, Senator.

Senator WELKER. So ordered.

Mr. MORRIS. Now, you have, Dr. Phillips, attended to this particular problem in the way that you have just described, over the last 6 years?

Dr. PHILLIPS. Yes.

Mr. MORRIS. You have attended to this problem of Communist influence here in the islands over the last 6 years in the way that you have just described?

Dr. PHILLIPS. Yes, sir.

Mr. MORRIS. You tried to observe this in your position as president and director of Imua?

Dr. PHILLIPS. That's right.

Mr. MORRIS. For the periods that you held the respective positions?

Dr. PHILLIPS. Yes, sir.

Mr. MORRIS. Now, have you come to any conclusions, Doctor?

Dr. PHILLIPS. Yes, sir; I have.

Mr. MORRIS. What is your conclusion?

Dr. PHILLIPS. It is my considered conclusion, that I have arrived at slowly and definitely, that nowhere that I know of in the United States have identified Communists gone further in obtaining their primary objectives than in the Territory of Hawaii.

Senator BUTLER. You say you will come to it later, but to what extent and in what directions has infiltration taken place?

Dr. PHILLIPS. First, may I mention these objectives, which are quite apparent, I think. They are the same objectives that the Communist Party used in gaining control in Guatemala, Czechoslovakia, and presently in Singapore, and many other places. Those objectives are these, in my opinion:

To infiltrate and control a major segment of the community's labor forces. Now, by "a major segment," down here I mean control of the sugar and pineapple industries and the waterfront. Those are so essential to us that control of them by the labor unions and by the Communist leaders of those labor unions amount effectively to the control of our economy.

Also, to a lesser degree, there has been control of governmental and hospital employees.

The second point is this. To use this power derived from that control of labor to control politics, thereby making possible their ultimate aim; the third, to control our Government.

Mr. MORRIS. Those are the objectives. Now, all of the objectives haven't been attained, have they, Dr. Phillips?

Dr. PHILLIPS. To a considerable degree, as I hope to point out to you, they have been attained.

Mr. MORRIS. Proceed, Doctor.

Dr. PHILLIPS. I would like to make this statement. When I referred to known Communists or identified Communists, I would like it to be understood that I refer only to individuals who have been identified by properly authorized government agencies, and identified on the basis of sworn testimony by those agencies, and so reported.

Mr. MORRIS. So when you refer to a known Communist, present or past, you refer to someone who has been affirmatively identified by sworn testimony before an official agency?

Dr. PHILLIPS. That's right.

Mr. MORRIS. Proceed, Doctor.

Dr. PHILLIPS. I would like to proceed first in taking up these points—the control of labor, the infiltration in politics, and the control of government—first of all, by discussing the control over labor down here.

The ILWU and the UPW control labor in sugar, pineapples, the waterfront, and to a considerable extent in government and the hospitals. And by virtue of control of the waterfront and the sugar and pineapple industries, they assert a power over the community's well-being far in excess of their numbers.

I would like to point out that, over all these 6 years, and before that, according to my reading, there has been the same leadership, the same individuals at the top of these unions. Hall, McElrath, Miyagi, Yagi, Arena, Thompson, Ah Quong McElrath, I think she calls herself, Kealoha, Kealilio, Ichimura, Kitimoto, Fujisaki, Ukio Abe, Elisaki, Okado, Oshiro, Osaki, Shumizo, and Frank Silva. All of these names appearing in the last report of the Commission on Subversive Activity.

Now to proceed to a discussion of political power and influence of these Communist leaders. I prepared a brief summary of the early days, that is, in 1947, which I would like to present.

In 1947 there was a political action committee under Jack Hall's guidance. Fourteen of thirty representatives elected to Hawaii's legislature last year had endorsement by this committee.

Mr. MORRIS. Fourteen out of thirty? Is that what you said, Dr. Phillips?

Dr. PHILLIPS. Fourteen out of thirty; yes, sir.

Mr. MORRIS. Fourteen out of thirty.

Dr. PHILLIPS. The following year the Communists practically took over the Democratic Party machinery on the island of Oahu, this island, by a clever maneuver. The Democratic county chairman, Lau Ah Chew, was persuaded to deactivate all Democratic precinct clubs as of midnight, March 31, 1948.

The following day new precinct elections were held and the next day bewildered Democrats woke up to find that Communists and Communist sympathizers and individuals under Communists control had taken over.

Senator JOHNSTON. Doctor, how did he have authority to do that?

Dr. PHILLIPS. I don't know. All I know is that—

Senator JOHNSTON. Was there a law or rule?

Dr. PHILLIPS. It was done.

Senator JOHNSTON. I think that ought to be entered into the record, just how he did that or by what authority he did that.

Dr. PHILLIPS. I don't believe that the source of my information, which is the report of the commission on subversive activities, has anything to say about that.

Senator JOHNSTON. I think that is very important, to see just by what authority he did that.

Mr. MORRIS. Senator, I will try to get the answer to that question for you and have it presented to the subcommittee.

Senator JOHNSTON. I think it ought to be here.

(The information requested was not available when this hearing was sent to the printer.)

Senator WATKINS. Mr. Chairman, why couldn't we call the man who made the order? Maybe he could supply the source of his authority.

Dr. PHILLIPS. That, I understand, was Mr. Lau Ah Chew, who at that time was the county chairman of the Democratic Party on this island.

Mr. MORRIS. Proceed, Doctor.

Dr. PHILLIPS. To continue. Of 811 precinct club officers checked by the commission, 175 were either Communist members, Communist sympathizers, or subject to Communist discipline, according to the commission on subversive activities. Wilfred M. Oka and Mrs. Peggy T. Uesugi, both listed by the commission as Communists, became secretary and assistant secretary of the Oahu County Democratic Committee.

Mr. MORRIS. You mean that a known Communist and an identified Communist became secretary of the county committee?

Dr. PHILLIPS. Secretary and assistant secretary of the Oahu County committee, yes, sir.

At the 1948 Territorial Convention of the Democratic Party, 41 Communist Party members served as delegates or alternates.

Mr. MORRIS. That is out of how many, Dr. Phillips; do you know?

Dr. PHILLIPS. I think some four hundred odd. I am not sure about that. Approximately.

This was the occasion described by Governor Stainback in his testimony before you last week, when loyal Democrats walked out and held their own convention.

According to the commission on subversive activity, it has in its possession sworn testimony that the mass infiltration of the Democratic Party which I have just described was planned at a meeting of the executive committee of the Communist Party of Oahu held at the home of Jack Hall early in 1948.

Persons who attended that meeting, the commission reported in 1955, are still prominently identified with the ILWU. Six of them were convicted of Smith Act violation 3½ years ago but are still out on bail, pending appeal.

And now may I proceed with further discussion of the political activity? In 1954 the ILWU leadership concentrated on candidates for office, and they elected enough of their endorsed candidates to exert, in my opinion, a profound effect on the 1955 legislative session.

In the 1956 elections, just ended, there was also concentration on candidates. Candidates were called in for informal talks; many of them were subjected to interviews with candidates. I have been told that many of them were questioned by Robert McElrath, Newt Miyagi, and others. A great amount of free radio time was given by the ILWU to candidates, and many of them availed themselves of that free time. It was offered to all candidates, I understand, many of whom refused to accept it, and at least one of them agreed to accept it providing there was permission to pay for the time, but that was not granted, it had to be free time or else.

Senator BUTLER. Do you know of your personal knowledge whether or not the ILWU or the UPW contributed directly to any of the successful candidates in that election?

Dr. PHILLIPS. Contributed funds?

Senator BUTLER. Yes.

Dr. PHILLIPS. No, I do not know.

Senator BUTLER. Do you have any reporting system on political elections in the Islands?

Dr. PHILLIPS. No, sir.

Senator BUTLER. The candidates don't have to file reports?

Dr. PHILLIPS. Oh, yes, yes. I beg your pardon. They do.

Senator BUTLER. Have you ever examined any of those reports?

Dr. PHILLIPS. No, I haven't. Just as they—the lump sums that they spent were reported in the public press.

I would like also to point out that, in this 1956 election campaign, the press reported that the ILWU legislative committee, a committee of nine, who, according to the press, would endorse political candidates acceptable to ILWU leadership, included the following: Thomas Yagi, director of the Maui division of the ILWU, a known Communist; Tadashi Ogawa, director of the Oahu division of the ILWU, a known Communist; and Newton Miyagi, secretary-treasurer of the ILWU, local 142.

Mr. MORRIS. Now, you say that they were 3 of the 9 members of the legislative committee of the ILWU?

Dr. PHILLIPS. That's right.

Mr. MORRIS. That engaged in the activities that you have described?

Dr. PHILLIPS. Yes.

Mr. MORRIS. Mr. Chairman, if I might break in, we have Mr. Miyagi standing by, available for testimony. His name has come up once already in Dr. Phillips' testimony, and we have called him here, to give Mr. Miyagi an opportunity to make any comments whatever he might have on the specific points of Dr. Phillips' testimony.

Senator JOHNSTON. Doctor, when you say "known Communists," could you expand on that a little bit and tell us just how you know they are known Communists?

Dr. PHILLIPS. I explained that earlier, Senator. I would be glad to explain again. When I mention "known Communists" or "identified Communists," I am referring to individuals who have been identified as Communists and so declared in the reports of the Territorial commission on subversive activities or other governmental investigative bodies.

Senator JOHNSTON. So you are using that report to identify them?

Dr. PHILLIPS. That's right.

Senator JOHNSTON. As known Communists.

Dr. PHILLIPS. That's right.

Senator JOHNSTON. That explains it.

Dr. PHILLIPS. It is my own understanding that those statements and identifications by the commission on subversive activities are based on sworn testimony which the commission accepted as true.

Senator JOHNSTON. Not convicted but by sworn testimony at these hearings—

Dr. PHILLIPS. Before the commission.

Senator JOHNSTON. Before the commission?

Dr. PHILLIPS. Yes, sir; that's true. Does that answer your question?

Senator BUTLER. And, Doctor, were those public hearings?

Dr. PHILLIPS. No; I do not believe they were. Perhaps some of them were. Members of the commission could answer that question for you. I am relying on the reports of the commission as published.

Senator WELKER. Proceed, Doctor.

Dr. PHILLIPS. I have discussed the control of labor; I have discussed the activities, and this has been a very brief, not a comprehensive, discussion of political activities, just enough to give you an idea, and now I would like to proceed to a discussion of the apparent influence on our Government, particularly on the last legislature.

It was quite apparent to those who visited the legislature frequently—

Mr. MORRIS. Did you so visit?

Dr. PHILLIPS. I did. That known Communists kept vigil on Iolani Palace during the entire session and were observed to be on terms of intimacy, friendliness, with many legislators.

Mr. MORRIS. Will you give us an example of that, Dr. Phillips?

Dr. PHILLIPS. Oh, I frequently came over here during the legislative session and observed Robert McElrath and Henry Epstein in their close relationships with members of the legislature, apparently on the freest of terms and quite intimate.

Mr. MORRIS. Senator, I think it would probably be advisable if we asked Dr. Phillips—I don't know; you make the decision—whether or not he should mention the names of any of the legislators. We try not to, unless we give these people an opportunity to say so.

Senator WELKER. No; we will not do that.

Mr. MORRIS. So if you tell us about examples, Doctor, will you mention only the names of the people you describe as "known Communists" on terms of great intimacy and friendliness with legislators, but do not mention the names of the legislators, because, according to our procedure, we would then have to bring the legislators in to make comment on that testimony. We try as much as possible to give everyone whose name is mentioned an opportunity to answer. So you can see why the insertion of any names into the record would prolong these hearings.

Dr. PHILLIPS. I understand. I would like to quote from a press report that appeared during the session of the legislature, for its significance. Commenting on the tax bill which was pending before the legislature, this press report said this—and I quote:

If the bill had not passed the house by midnight, Senate President William Heen had warned he would adjourn the upper house and end the session. The house had worked during the day with intention of doing so, even before the senate gave its ultimatum to Speaker Charles Kauhane. The speaker would not disclose his own plans. At 8 p. m. he went into a meeting with Robert McElrath and several other ILWU representatives.

Then I would like to submit also as being significant, the matter of a measure which was brought before the legislature for exemption of the ILWU memorial clubhouse from taxation. This measure passed the house, the senate, and went to the Governor, where it was vetoed. I have here a certified copy of two pages from the journal of the house of representatives of the last legislature, from which I would like to read. On page 1281 there is the following:

A message from the Governor (Governor's message No. 25, returning bill No. 58 without his approval) was read by the clerk, as follows: "In accordance with section 49 of the Organic Act, I return herewith, without my approval, house bill No. 58. The purpose of this bill is to exempt from the real property tax all property owned and used exclusively by the ILWU Memorial Association in the Territory of Hawaii. The exemption is granted retroactively to

January 1, 1955, and would include property that may be acquired in the future as well as property now owned by the association.

"The ILWU Memorial Association was granted a charter as an eleemosynary corporation on May 23, 1950. It was founded by the International Longshoremen's & Warehousemen's Union; its membership is limited to present and former members of the ILWU.

"The 1955 report of the territorial commission on subversive activities states that 'Communist activity in Hawaii now appears to be centered almost entirely around the ILWU, its satellite union, the UPW, and the Honolulu Record, a weekly newspaper largely subsidized by the ILWU.'

"Upon the incorporation of the ILWU Memorial Association, 7 of the 10 officers and directors were persons who have been identified as having been members of the Communist Party; 4 of the 7 were among the so-called Reluctant 39, and 1 of the 4 has been convicted under the Smith Act. Since its incorporation, not less than half of the officers and directors of the association have been persons who have been identified as having been members of the Communist Party.

"The Attorney General has submitted a report covering this bill, together with house bill No. 693 and house bill No. 882, all three measures proposing to exempt certain real property from taxation. He advises me that such exemptions are not within the legislative power conferred by the Hawaiian Organic Act. I attach a copy of his memorandum herewith.

"In view of the foregoing, I cannot approve of this legislation."

Mr. MORRIS. In other words, legislation which would give a tax exemption?

Dr. PHILLIPS. That's right. And then the journal continues as follows:

The communication, Governor's message No. 23, was received and placed on file.

Notwithstanding the veto of the Governor to the contrary, Mr. Inouye moved for final passage of house bill No. 58, seconded by Mr. Carvalho and carried by the following vote of 22 ayes and 6 noes, with Representatives Hind and Yoshinaga being excused.

And then follows the vote for and against.

Mr. MORRIS. No need of reading those, Doctor.

What happened in the senate?

Dr. PHILLIPS. The senate did uphold the veto of the Governor, and the tax exemption was not granted.

Mr. MORRIS. The legislation did not override—

Dr. PHILLIPS. The legislation failed by virtue of the action of the Senate.

Mr. MORRIS. The point that you make there—excuse me, Senator.

Senator JOHNSTON. Do you have, for the record, the vote of the Senate, Doctor? What it was, how many for, how many against?

Dr. PHILLIPS. No; I do not have that, Senator.

Mr. MORRIS. I will put that in the record at this point, Senator.

(The vote record was not available when this hearing was sent to the printer.)

The point you make is, Dr. Phillips, that after the Governor had made very clear to the legislature that this organization was in fact a Communist-controlled association, and despite his warning to the legislature, the house of representatives nevertheless proceeded by a 22 to 6 vote, to override the veto?

Dr. PHILLIPS. Yes, sir. I am discussing this in connection with my discussion of apparent influence on the last legislature. I am aware of the fact that if a doctor inadvertently leaves a sponge or scissors in a patient's abdomen and is subsequently up for negligence or mal-

practice, that lawyers in the courts use a Latin phrase "Res ipsa loquitur." Do I quote that correctly?

Mr. MORRIS. That is correct.

Dr. PHILLIPS. Meaning "The facts speak for themselves." "The fact speaks for itself."

Senator WELKER. Not bad, Doctor. You are getting along pretty well.

Dr. PHILLIPS. The matter of the reduction of the budget of the commission on subversive activities, I think there has been mention in testimony before you, a budget of \$47,000 was recommended. This was reduced to \$20,000 by the legislature, which was inadequate to continue on the activities of the commission on subversive activities, and its staff, I understand, was discharged about a month ago for want of further funds. It was quite apparent to me one night when I was before the house of representatives, in connection with the leaking of the report of the commission on subversive activities, that there was a move afoot against the commission on subversive activities at that time. In that meeting the speaker of the house stated that it was intended, and I believe that he introduced a resolution or a measure to that effect, to have future members of the commission, that is, the commission on subversive activities, appointed by the president of the senate and the speaker of the house.

Mr. MORRIS. Rather than by the Governor?

Dr. PHILLIPS. Rather than by the Governor. Mr. Kauhane was the speaker of the house.

Senator JOHNSTON. Didn't give the Governor any appointments whatsoever?

Dr. PHILLIPS. In connection with the commission on subversive activities, the statement was made and, as I understand, the measure was introduced giving the power of appointment to the commission to the speaker of the house and the senate. That, however, failed of passage. The commission was adequately—inadequately taken care of, I should say, by the reduction of its budget, which effectively scuttled it.

Senator WATKINS. Has it operated at all since that time?

Dr. PHILLIPS. I understand that it operated until about a month ago, at which time, I understand, the office staff was dismissed, and Mr. Emanuel, I think, is on vacation.

Senator WATKINS. They ceased operating because they ran out of money?

Dr. PHILLIPS. I beg your pardon?

Senator WATKINS. Did they cease their operations because they ran out of money?

Dr. PHILLIPS. Yes, sir. That is the reason that has been given, because of inadequate funds.

There has been attached some significance to an incident that occurred during the legislative session. An item appeared first, I think, in the People's Daily World, the Communist newspaper on the mainland, recording that a complimentary gavel had been sent to Harry Bridges, head of the ILWU, then in convention in Los Angeles, by Speaker Charles Kauhane, speaker of the House of Representatives of the Legislature of Hawaii. It is understood—this was reported in the press—that Mr. Kauhane gave this gavel to Newton Miyagi, an identified Communist, and that Mr. Miyagi transmitted this gavel with Mr. Kauhane's compliments to Harry Bridges.

That has been considered of some significance, I believe.

I would like to take a few minutes to discuss Communist propaganda here in the islands. I think you have had some information before you on that subject before. It is estimated that at least a quarter of a million dollars was spent by the ILWU and other Communist agencies in propaganda largely affecting the people of this Territory. According to the commission on subversive activities, the ILWU reported that \$199,604.50 was spent to maintain its propaganda apparatus in a single year.

This has been reported in the 1955 report of the commission.

We have been advised that maintenance and publishing of the Honolulu Record, which has been identified as a Communist-front newspaper, costs at least \$50,000, in addition to this \$199,000 which the ILWU reports, so that I think that the figure \$250,000, or a quarter of a million dollars for propaganda, largely devoted, according to the commission, to Communist purposes is perhaps on the low side.

Senator WATKINS. May I ask a question at this point?

Senator WELKER. Senator Watkins.

Senator WATKINS. Is the Record published in the English language exclusively?

Dr. PHILLIPS. Yes; it is.

Mr. MORRIS. Mr. Chairman——

Dr. PHILLIPS. Sometimes pidgin English, but it is the English language.

Senator WATKINS. It passes for English, anyway. I say it passes for English?

Dr. PHILLIPS. Yes. Correct.

Senator JOHNSTON. Does the report break it down in any details whatsoever?

Dr. PHILLIPS. Yes; it does. I think that was read into the testimony the other day, was it not?

Mr. MORRIS. That is right, Dr. Phillips.

Senator Johnston, did—I did bring in with a great deal of detail, and that's one of the reasons, Senator Johnston, we have Mr. Miyagi standing by. We are talking about Mr. Miyagi, who is the treasurer of local 142—we are talking about his figures—and for the 3 episodes now—we have 3 episodes in the record that you can ask Mr. Miyagi about as soon as Dr. Phillips is finished.

Senator WELKER. Yes. I think that can be done. Proceed.

Mr. MORRIS. Will you tell us about the character of this propaganda, Dr. Phillips?

Dr. PHILLIPS. I would like to discuss the character of this propaganda. It is largely agitational in type and it is uniformly consistent with and never diverges from the Communist line and purposes. Some if it it has a more or less of a legitimate union aspect, but through it all, over the years that I have followed it, it has been almost entirely agitational or largely agitational, and I have never in a single instance heard any divergence from or criticism of the Communist line. It is quite apparent——

Senator WATKINS. Just a moment, Doctor. No criticism of the Communist line. Has there ever been any criticism of the Communist Party?

Dr. PHILLIPS. None that I know of, sir.

Senator WATKINS. Or of the Communist nations, Russia and the satellites?

Dr. PHILLIPS. If there has been, I haven't heard it or read it.

Senator WATKINS. And you have rather carefully gone over all of this propaganda, have you not?

Dr. PHILLIPS. Well, I do practice medicine too, but I have devoted a considerable amount of time to this work.

Senator WATKINS. I didn't expect——

Dr. PHILLIPS. As far as I can.

Senator WATKINS. I didn't expect you to read it all, because it runs into an immense number of words and volume, but in making that statement, we would just like to know how extensively you have gone into this. We wouldn't want to be unfair. If they have ever denounced the Communists or Russia and the satellite nations, which follow the Communist cause, we would like to know about it.

Dr. PHILLIPS. Nor do I wish to be unfair, Senator.

Senator WATKINS. Yes.

Dr. PHILLIPS. It is quite apparent that the purpose of this propaganda is, I would say, threefold. First of all, to stir up racial antagonism, particularly against the haoles, or the white people here in this community: second, to create and promote stress between employer and employee and between persons of different economic levels; and, third, to destroy respect for government.

I think that if you gentlemen listened to the broadcast and rebroadcast of Harry Bridges speech before the demonstrators against this committee last week, you know what I am talking about when I say—refer to that as a good example of agitational propaganda. In that there was appeal to racial friction, there was the threat and the bribe and the extreme disrespect for properly constituted authority, which has, in my opinion, marked all of this propaganda to which I refer.

Senator WATKINS. Do you have copies of his broadcast?

Dr. PHILLIPS. I believe that we do; I am not sure.

Senator WATKINS. If you do, submit them so that I can read them.

Dr. PHILLIPS. If we have them, yes.

Senator WATKINS. I would appreciate the opportunity to read them.

Dr. PHILLIPS. I am not sure whether we retape that or not.

Senator WELKER. I know you would, Senator, appreciate that, and we will try to get copies of the broadcast.

Mr. MORRIS. Senator, we have a record of that.

(A transcription of the Bridges broadcast as printed in the Honolulu Record was marked "Exhibit No. 387" and reads as follows:)

EXHIBIT NO. 387

[Honolulu Record, December 6, 1956]

BRIDGES BLASTS EASTLAND SENATE COMMITTEE

Hello folks, brothers and sisters, members of the ILWU, and our friends. I wish to address you for a few minutes today as to the purpose of this meeting, and again to remind you as to the reasons for this union's existence.

We are holding a protest meeting, and, as a union, we are protesting the visit to these Islands by a Senator of the United States, a Senator who proclaims that he is here to investigate communism. We attempted to secure permission, in keeping with law, from the local authorities, so that this meeting could be held

elsewhere, and that everybody could understand our purpose—what was being said and why. But we were unable to secure that proper permission, or legal permission, and we eventually secured the services of this auditorium. We were denied permission, according to what the local authorities told us, because Mr. Eastland apparently didn't like it. And that's something new.

Quite a struggle is being waged at the present time, and it will continue, in the United States of America over the rights of certain people, citizens all, to be equal before the law, before God, and before the community—a struggle over the rights of people not to be discriminated against—their right to go to school and not be segregated because of their color or race. That's an important struggle. [Applause.] Legislation has been passed, and the courts of our country are attempting to enforce that legislation. We just passed through a great national election. Hardly a single politician dared try to evade the issue—the right of people to be equal and to be treated as equals with the proper dignity and respect accorded them no matter where they were born, no matter what their color.

Mr. Eastland and his cohorts do not concede that right to people of America who do not have white skins. Now there's no argument about that. The record is clear, and has been clear on that point since this Senator has been in the Congress of the United States. He has firmly indicated that he considers the Supreme Court of the United States, if not "Communist controlled," then "Communist influence," because that Court ruled that people of all races have a right to attend the schools of our country without discrimination or segregation. Mr. Eastland is down here to block statehood for the Territory of Hawaii. He has said so, and he says it all the time. He wouldn't say it here, but he's down here to build a little record to say it in Washington to block what he thinks is legislation that will come about very shortly to give home rule to this Territory and its people and a greater degree of democracy and equality. The way to do that is to block statehood, or to argue against it on the grounds that the citizens of this Territory cannot be trusted, and especially the citizens who are members of the ILWU—to attack their loyalty, as well as their dignity and integrity.

We don't have to stand for that, and we don't intend to. We have a right to leave our jobs, and to come up and participate in meetings and to say what we think. We do not, and we cannot challenge the right of any congressional committee to investigate here or anywhere else, but we do expect to be treated with dignity and equality. * * * He (Eastland) considers people who are not white inferiors. He said as much, and he has attempted to make a career out of being a white supremacist.

There are some employers here who are protesting that they have had nothing to do with the appearance of this committee. If they don't support the committee by their silence, if they don't agree with the committee's aims, they should say so. I don't expect them to come down here at a meeting and say so, but they should say so, instead of trying to tell us that we haven't got the right to leave our jobs and participate in a protest against the things that Mr. Eastland stands for, a protest against his opposition of statehood, a protest against his pretense of investigating communism, and in reality trying to whittle down, or weaken, one of the strongest [applause] supporters of statehood. (At this point a person made up as a Ku Klux Klanner came onto the stage.) Looks like some of the members of that committee's gotten down here.

We have a union in Hawaii, and we have a union on the mainland, too. I want to remind the membership of that. The union here does not stand alone, and no individual in the union is going to stand alone. We know how to fight, and fight we will. The employers, and some other people in this Territory, seem to want to have it both ways. We make recommendations to our rank and file and explain the reasons for them, and the rank and file vote on them, and because they exercise their democratic right in the union to maybe vote the recommendation up or down, somebody tries to say the union is split or in revolt. We can't have it both ways. We can't have an alleged dictatorship, and when Bridges says, "Go on strike," or, "Walk out," or do something, that's what happens, when, in reality, the situation is: Your officers make a recommendation; they explain the reasons for the recommendation; the recommendations are put on a vote; everyone exercises his right to vote; and somebody tries to make a split or revolt out of it. It's laughable and it's not worth us wasting our time on it.

Now I want to tell you some of the workings of this committee. First of all, I speak as somewhat of an expert. I have been answering questions under oath for over 20 years. I have been through five trials * * * I know a little about this

method of asking questions, trick questions, and other things. I know a little about the prosecutions for alleged perjury.

All the questions this committee wants to ask have been answered by me over and over again, time after time, before congressional committees and courts under oath, with always the threat of contempt or perjury. And all of you know that. There's not a single question this committee can ask any officer of this union that the Congress of the United States hasn't had the answers * * *. But there was some element of fairness and decency and legal protection before those committees, as there is before a court of law. You go before a court of law, and you're asked certain questions, the evidence on which the question is based. You have a right to face and cross-examine your accuser. You have the right to make the friendly witness out a liar, and, in most cases, we have been through that and did that over a period of many, many years, but Mr. Eastland does not intend to allow anybody a right of that kind.

A congressional committee of this type commanded by a Senator like Mr. Eastland can prove anything the Senators want to prove, and they know it. They'll bring out the type of evidence, so-called, they want to bring out. They will suppress the type of evidence that will contradict anything they are seeking to bring before the people. They will do it by the device of entrapment, by trick questions where the victim before the committee faces prosecution for perjury, or prosecution for so-called contempt of the committee.

That is why people resort to the use of the fifth amendment of the Constitution. They use their legal and constitutional right—a right, incidentally put in the Bill of Rights to protect the innocent as well as any who might be guilty—and they refuse to answer because they know the reason that the committee seeks the answers is not to acquire information, or to conduct an honest examination, but to victimize witnesses, and attempt to hurt his organization. The trick questions flow, and sometimes there is some confusion or lack of understanding in the minds of people.

Mr. Eastland soon will be asking officers or members of our union: When was the last time you engaged in espionage against the United States? When was the last time you got orders from Moscow or some other place? When was the last time you committed sabotage? When was the last time you sat down with some people, and conspired to be a spy against your country? When was the last time you engaged with some alien elements to commit sabotage against the United States or its defense institutions?

* * * And I suppose officers and members of his union will go before that committee, and they will be asked, "Now what did you have to do with planning or trying to plan an uprising because it says right here in sworn testimony (by a former United States general, now retired) before this committee that that was what was going on down here." Well, all of you know it is a lie, and all of you know it is nonsense. And, as a matter of fact, that was what was behind the official proposal made through our attorneys to have all the subpoenaed witnesses go before the committee, and if they asked, "Are you a Communist?" to answer that question "Yes" or "No"; or—if asked "Have you been a Communist for the past several years?" to answer the question "Yes" or "No."

Mr. Eastland said he is not concerned with the activities of the union. Well, the way it works, you go up and answer a couple of questions like that, and your answer is truthful. Then they start asking you, "If you're not a Communist, is so and so one?" Don't try to say, "I don't know," because they will run in their professional stool pigeons and witnesses to prove that you are lying when you said, "I don't know." There are people in jail today because of saying before a committee in all truthfulness in answer to a question, "Do you know if so and so is or has been a Communist?" "I don't know." So there is only one way. Knowing the committee, knowing the type of chairman it has, knowing that he does not concede our equality before the law, then the only thing to do—and the officers of this union have had enough experience in it—is to take refuge in those provisions of our United States Constitution that were put in the Constitution for that specific purpose.

Mr. Eastland would like nothing better than to tear up the Constitution and the Bill of Rights of the United States because he does not believe it should apply to all the Nation's citizens and people—only the ones that he thinks it should apply to. Well, we do not agree.

* * * Mr. Eastland and others who seem to agree with him ought to consider something I just told the employers a couple of days ago: "We have no job control in this Territory. Every member of the union and every officer who came off the

job was put on the job by the employers of this Territory." We didn't put them there. We organized them into the union, and when we organized them, we didn't look at the color of their skin. We did not ask them what their politics were. They were workers. They had been hired by the employers. They were eligible for membership in the union—and that's where we want them, and we intend to represent them, and improve their wages, hours, and conditions. [Applause.]

The real grievance Mr. Eastland has against us is that we have been effective politically. We have gone to work and tried to help and support candidates for public office dedicated to equality and to statehood for Hawaii. Mr. Eastland is afraid of that.

Let us all be of good cheer, full of confidence in our union. Nothing is going to happen. We are calm people, and we know what we are doing. We are not motivated by any suicidal crazy impulses. We are still doing business at the same old stand.

One of the best messages to our answers that I have seen to Mr. Eastland as far as this union is concerned was yesterday when we were able to announce another 16 cents an hour increase for the Hawaiian longshoremen [applause], effective October 1. That makes a 22 cents an hour increase since June 18; 6 cents from June 18 to September 30; another 16 cents from October 1—Mr. Eastland doesn't like it. He doesn't like it at all because Mr. Eastland doesn't concede the longshoremen in his State the right to get as much wages as longshoremen elsewhere because they have black skins. Just remember that. The best answer to Mr. Eastland right while he is down here: Wages go up again 16 cents an hour. That's a pretty good record for our union. Not many unions in the United States in the last few months have increased wages 22 cents an hour. We are going to stay that way, and we have to catch up in sugar. We have to catch up in pine, and no matter what damage Mr. Eastland tries to do; no matter how much he tries to help the employers of this Territory; wages in sugar are going up. [Applause.] In pineapples, too. [Applause.] And furthermore, everybody is going to get those wages. That 16 cents goes to everybody in longshore, not just to white people—all people. And as far as Mr. Eastland is concerned, he is not going to worry us at all. We just want him to know what we think of him and where we stand.

And in this connection I can assure the members here in the Territory that millions upon millions of people agree with you in all walks of life.

Senator WELKER. Very well. Proceed.

Dr. PHILLIPS. I would like to discuss the effect of these Communist activities and Communist-front propaganda on this community.

In the last report of the commission on subversive activities, the commission refers to the public attitude as being one of apathy and indifference. And I concur in that opinion.

I am convinced that this propaganda has had a definite and unhealthy impact, not only on the rank and file of labor, but on people in all walks of life. It is consistently anticapitalist, antihaole, anti-government. And it definitely has widened the gap between the haole, the white, and the nonwhite in this community, a gap which people of all races here in Hawaii have sincerely striven to eliminate over many decades and in which they have succeeded to a greater extent than perhaps any other place in the world.

There has been a considerable acceptance, an alarming acceptance, of these known Communists into the life of the community and its civic affairs; it has been manifested in many ways. In connection with this, as one instance, I would like to refer to a pamphlet which was published recently by the industrial relations center of the University of Hawaii. It is entitled "Labor Management Relations in Hawaii." The table of contents indicates that it contains articles by Mr. Ralph O. Beck, who is a vice president of the Hawaiian Telephone Co., by Mr. Arthur Rutledge, who is head of one of the A. F. of L. unions here, by Mr. C. J. Henderson, who is one of the vice presidents of Castle & Cooke, by Dr. Harold S. Roberts, who is the director of this industrial relations center, and an article by David E. Thompson, who

is, I understand, the education director of the ILWU and a known Communist.

Mr. MORRIS. Dr. Phillips, does the book mention Mr. Thompson's position as the educational director of the ILWU?

Dr. PHILLIPS. Yes, it does.

Senator JOHNSTON. He signs it, then, himself, in that capacity, is that true?

Dr. PHILLIPS. May I just—Well, I answered that quickly, but in referring here, I do not find that Mr. Thompson is identified as the education director of the ILWU.

Mr. MORRIS. In other words—

Senator WELKER. Do you know him to be the educational director?

Dr. PHILLIPS. That's my understanding, yes, sir.

Senator WELKER. You know him to be such?

Dr. PHILLIPS. He is reported to be, he is named in the commission on subversive activities, his name has appeared as such in various connections.

Senator WELKER. And his general reputation here in the community is that he is the educational director?

Dr. PHILLIPS. That's right.

Mr. MORRIS. The point you are making, Dr. Phillips, is that this pamphlet, which is distributed quite widely apparently, contains an article by David Thompson, does not identify him either as a Communist or as the educational director of the ILWU?

Dr. PHILLIPS. I would like to make two points in connection with this. First of all, it is a discussion of labor-management relations in Hawaii, and I have read it very carefully and I find no reference whatsoever to the Communist influence in labor matters here in the islands, an influence which I am convinced affects every facet of labor-management here in the Territory. The second point is that Mr. David E. Thompson is not identified in this University of Hawaii publication as a known Communist, in spite of the fact that the commission on subversive activities has repeatedly indicated that he is an identified Communist.

I would like to say further that this was published some months after the department of public instruction set up a committee, an advisory committee on economic education and requested management-labor to send representatives to serve on this advisory committee. I am informed that the ILWU sent as its representative Mr. David Thompson, its education director, this known Communist that I am speaking of, and Mrs. Ah Quong McElrath, who is Mr. McElrath's wife, as their representatives.

Senator WELKER. Counsel, at this point in the proceedings, I think we perhaps should hear from Mr. Mandel, our research director, with respect to what we find about David E. Thompson, Director of Labor Organizations in the Territory of Hawaii, No. 29, Revised March 1956, Department of Labor and Industrial Relations, Bureau of Research Statistics, Territory of Hawaii.

Mr. MANDEL. According to the Directory of Labor Organizations, Territory of Hawaii, No. 29, Revised March 1956, on page 23 it shows under International Longshoremen's and Warehousemen's Union, David E. Thompson is the Territorial education director.

Senator WELKER. Proceed with the witness, Dr. Phillips.

Dr. PHILLIPS. I was talking about this advisory committee on economic education, set up by the department of public instruction, to

which the ILWU sent as its representatives David Thompson and Mrs. McElrath.

There came a time when it was pointed out that this was a semi-official body and that its members would be required to make a personal history statement and also take the loyalty oath, which is required of Government employees here. Mr. Thompson and Mrs. McElrath did not subscribe and left the committee. This appeared in the paper and I think was published knowledge long before this booklet was issued.

In connection with the first statement, that there is nothing whatsoever in this document relating to the Communist activities in connection with labor here, I would like to say that I talked with Mr. Ralph O. Beck, who was the author of the first article appearing in there, and he told me that the original manuscript of his paper contained a number of paragraphs dealing with that subject. Those paragraphs, however, do not appear in this booklet.¹

¹ See the following:

JANUARY 11, 1957.

Mr. PAUL S. BACHMAN,
President, University of Hawaii,
Honolulu 14, T. H.

DEAR MR. BACHMAN: Thank you for your letter of December 5, 1956, enclosing a copy of your letter to Dr. Lyle Phillips.

I am happy to advise you that both letters will be incorporated in a footnote to the printed transcript of Dr Phillips' testimony before the Internal Security Subcommittee.

With my best personal wishes,

Sincerely yours,

JAMES O. EASTLAND,
Chairman, Internal Security Subcommittee.

UNIVERSITY OF HAWAII,
Honolulu, T. H., December 5, 1956.

CHAIRMAN, SENATE SUBCOMMITTEE ON INTERNAL SECURITY,
Care of Office of the Governor,
Iolani Palace, Honolulu, T. H.

DEAR SIR: I am enclosing a copy of my letter to Dr. Lyle Phillips, who testified before your committee. The letter, I believe, is self-explanatory. I am sure you will wish to delete this part of his testimony or include the enclosed letter in your records.

Sincerely yours,

PAUL S. BACHMAN, *President.*

UNIVERSITY OF HAWAII,
Honolulu, T. H., December 6, 1956.

LYLE G. PHILLIPS, M. D.,
350 South Hotel Street, Honolulu, T. H.

DEAR LYLE: You will recall that some time ago you told me that Dean Harold S. Roberts had edited out of a reprint of a speech by Mr. Ralph Beck before the American Management Association certain references to the Communist affiliations of certain of the leaders of the ILWU. I was very much disturbed by this, but hesitated to discuss it with Dean Roberts due to the fact that he was recovering from a heart attack. I understand that recently you made a somewhat similar statement to the Senate Subcommittee on Internal Security. I have now consulted both Dean Roberts and Mr. Beck and have determined that no such deletion was made by Dean Roberts. The article as reprinted by us is exactly the same as it originally appeared in the publication of the American Management Association.

I know that you will be gratified as as I am to know that no alteration was made by Dean Roberts and will want to take the necessary steps to correct the injustice done him. I am taking the liberty of sending a copy of this letter to the chairman of the Senate Subcommittee on Internal Security.

Sincerely yours,

PAUL S. BACHMAN, *President.*

UNIVERSITY OF HAWAII,
Honolulu, T. H., January 14, 1957.

CHAIRMAN, SENATE SUBCOMMITTEE ON INTERNAL SECURITY,
United States Senate, Washington, D. C.

DEAR SIR: On January 9, 1957, President Paul S. Bachman, of the University of Hawaii, dictated the covering letter for the enclosed material. Before he had signed the letter he was stricken fatally with a heart seizure. Needless to say, the university has suffered a very serious blow as has the cause of education both in the Territory and in the United States mainland, where his influence, wise counsel, and integrity were beginning to be felt increasingly and respected.

I am forwarding to you the material, together with his covering letter.

Very sincerely,

WILLARD WILSON, *Acting President.*

(Footnote 1 continued on p. 2335.)

Now, I am submitting this, not with any idea of reflecting on the university or the people up there. It is simply as an indication of the casual way in which known Communists are accepted, and one almost might say embraced, in this community.

Senator WATKINS. Dr. Phillips—

Senator WELKER. Senator Watkins.

Senator WATKINS. Do you have an extra copy of that paper, that bulletin that you were talking about, that may be submitted to the committee as an exhibit?

Dr. PHILLIPS. Yes, sir.

Mr. MORRIS. Senator Watkins, I might add that Mr. David E. Thompson has been subpenaed will be a witness here, almost the next witness here today, Senator.

Senator WATKINS. I understand that, but I would still like to have a copy of the document.

Senator WELKER. Very well. It will be so ordered, and made a part of the record.

(The publication above described was marked "Exhibit No. 388," and was placed in the subcommittee's files.)

Dr. PHILLIPS. I might call to your attention, when you read this, that this hardly squares with—the material in this, in my opinion, is very excellent propaganda material—but it hardly squares with the Bridges' approach in his speech last week.

UNIVERSITY OF HAWAII,
Honolulu, T. H., January 9, 1957.

CHAIRMAN, SENATE SUBCOMMITTEE ON INTERNAL SECURITY,
United States Senate, Washington, D. C.

DEAR SIR: On December 5 I sent you a copy of my letter to Dr. Lyle Phillips, who testified before your committee in Honolulu. I believe that Dr. Phillips has sent you a copy of his reply to me. I am enclosing a copy of a letter written by Ralph Beck in which he also states that he gained the impression that Dr. Phillips' testimony implied at least that a change in the article had been made by Dean Roberts. I was not present at the hearing when Dr. Phillips made the statement and, therefore, cannot be certain as to exactly what was said by Dr. Phillips. I am only interested in having the record conform with the facts and would appreciate it if you would examine the records to make certain that it does set forth the situation accurately.

Sincerely yours,

PAUL S. BACHMAN, President.

HAWAIIAN TELEPHONE CO.,
Honolulu, T. H., December 5, 1956.

Dean HAROLD S. ROBERTS,
University of Hawaii, Honolulu, T. H.

DEAR HARRY: The other day you asked me to clarify certain aspects of the talk I made at the American Management Association fall personnel conference held at the Astor Hotel, New York City, September 30, 1952. This speech was subsequently published by the American Management Association in a personnel series pamphlet No. 147, entitled "Spotlighting the Labor-Management Scene." The text as printed in this pamphlet did not accurately reflect my entire remarks made before that personnel conference. Certain portions of that talk were edited out by the American Management Association. In general, that portion which was edited related to remarks pertaining to certain of the ILWU operations in Hawaii, as well as references to Harry Bridges as president of that union. When requesting permission to edit portions of my talk, the American Management Association editor of publications stated, "It is not the policy of the American Management Association to publish statements of a controversial nature."

You will recall that in the spring of 1956 you asked my permission to republish this talk in your University of Hawaii publication, Labor Management Relations in Hawaii, Part III. I cannot recall whether or not I told you at that time that the American Management Association publication had been edited by their own staff and did not accurately reflect my entire talk.

Dr. Lyle G. Phillips, former president of the Hawaii Resident's Association, Inc., when testifying before the United States Senate Internal Security Committee, indicated that the University of Hawaii edited the speech I made before the American Management Association. I believe that Dr. Phillips misunderstood my explanation when I described to him how the University of Hawaii reprinted the speech as published by the American Management Association. I believe he was mistakenly under the impression that the University of Hawaii edited this speech, rather than the American Management Association.

Sincerely yours,

RALPH O. BECK, Vice President.

Mr. MORRIS. Proceed, Dr. Phillips.

Dr. PHILLIPS. Continuing on this same subject, of the effect of all these Communist activities and propaganda on the community, I would like to mention very briefly a few more things.

One is the politicians' acceptance of free ILWU radio time during the last campaign. Also, I would like to mention the attendance of prominent persons and at least one public official at testimonial dinners given for Jack Hall, who has been convicted of teaching and advocating—conspiring to teach and advocate the overthrow of our Government by force and violence.

Senator WATKINS. May I ask you a question at this point?

Were these dinners given and the attendance of these people had after the conviction?

Dr. PHILLIPS. Yes, sir. They were held largely during the recent political campaign. Two of them have been held since that time, I understand.

Senator WATKINS. It is difficult to understand why they would do that because the conviction still stands until it is set aside; he is still guilty until that is set aside by a competent court.

Dr. PHILLIPS. That was 3½ years ago and I am afraid people begin to forget.

Senator WATKINS. They may forget, but at the same time the politicians who are the people in public life who are attempting to guide public thinking and get public legislation, certainly ought to keep in mind, unless they are favorable to the idea advanced by these people, they ought not to give—

Dr. PHILLIPS (interrupting). You certainly get the point that I am trying to make, Senator. I quite agree with that.

It has been my observation and is my opinion that, as the power and influence of the Communist apparatus has grown in this community, there is an ever-increasing number of persons who are definitely non-Communist and not Communist sympathizers who, however, have been finding it expedient not to be openly and actively anti-Communist.

Senator WATKINS. Just what do you mean by that?

Dr. PHILLIPS. I mean this. That as this Communist influence has grown and as people look at their labor relations and their business affairs and their political affairs and so forth, that it is quite apparent that many of them, although they are good American citizens—they are not Communists, they are not Communist sympathizers—do not speak out. Well, for instance, there are quite a few who regularly contribute to Imua if we don't mention their names.

Senator JOHNSTON. Doctor, what you mean to say is this: That a businessman, rather than to lose business, just keeps his mouth shut. Is that right?

Dr. PHILLIPS. Yes, sir. It extends way beyond the businessman. It extends to the University of Hawaii in connection with this article that I just referred to.

Senator WATKINS. Could it possibly be true that, as was intimated to me by a leader in one field in this Territory here the other evening, that many of the businessmen, industrialists and others, were willing to wink at most anything if they could "make a fast buck," to use the language of this man with whom I was talking. I want to know if that is possible that that is happening here in this Territory.

Dr. PHILLIPS. I don't know as I would put it quite that way.

Senator WATKINS. That's the way he put it.

Dr. PHILLIPS. I think it is true that there are some who are willing to look the other way if their labor relations are not disturbed.

Senator WATKINS. If they are acquainted with the situation that exists, and if they have any knowledge of the list of these known Communists, it seems to me that that is not being a loyal American, to take that kind of a stand.

Senator WELKER. I think the Senator from Utah has well described it. He is willing to make a fast buck. I don't care what you call it.

Mr. MORRIS. Mr. Chairman, may I say that the reporter has run to the end of his machine here.

Senator WELKER. All right. It is in order that we suspend for 2 minutes. Will the audience please remain seated?

(A short recess was taken.)

Senator WELKER. May we have order. The proceedings will continue. Counsel, your witness.

Mr. MORRIS. I think Senator Watkins hadn't finished.

Senator WATKINS. I think I made the only comment I want to make. I just doubt the loyalty of people who are willing to keep things hid, or go along with them, in order to make a fast buck, even though it might help the country rid itself of this type of people if they took a determined stand. And I have an opinion, a definite opinion that, if they all took a determined stand, this kind of menace could be ended.

Dr. PHILLIPS. I agree with that. I would also like to point out, however, that management here, as elsewhere, is required to deal with the properly elected representatives of labor unions, and consequently our sugar and pineapple industrialists down here find themselves in the position of sitting down across the table from convicted Communist Jack Hall, who was convicted in court here 3½ years ago of conspiring to teach and advocate the overthrow of our Government by force and violence. It poses something of a dilemma for management.

Senator WATKINS. I would like to say that unless some good reason is shown, the courts are not carrying out their function they ought to in letting the matter hang fire that long.

Dr. PHILLIPS. I was about to comment on that.

Senator WATKINS. I have been a judge, and I am on the Judiciary Committee, along with my colleagues, and personally I don't believe that is a good policy to have matters continued so long without having a determination made. I don't think they're above criticism in a matter of that kind.

Dr. PHILLIPS. I am not a lawyer, Senator, and perhaps don't understand all of the reasons for these things, but I think that most people of this community share this opinion with me. They can't understand how it could be that every question in connection with the conviction of the Hawaii seven couldn't have been answered with justice and fairness to all in a matter of months, rather than 3½ years and they are still out on bail.

Senator WATKINS. I have the same feeling that you just expressed.

Mr. MORRIS. Dr. Phillips, you mentioned that management was in something of a dilemma in that they had to bargain with the ILWU.

Dr. PHILLIPS. With the Communist leader of the ILWU.

Mr. MORRIS. Doctor, there is no need or no requirement, however, on the part of management to attend the testimonial dinners for that same man?

Dr. PHILLIPS. No, sir; absolutely none.

Mr. MORRIS. You weren't defending that?

Dr. PHILLIPS. No, sir. Absolutely not.

Mr. MORRIS. Dr. Phillips, could you tell us about the effect of this long delay in connection with the appeals of the seven Hawaiian Communists?

Dr. PHILLIPS. I think the worst effect, and I am confident that this is very, very definite, has been the increasing feeling in this community—and taking into consideration the fact that many of our citizens down here are first and second generation American citizens—the feeling is that, after all, there can't be anything very serious about conspiring to teach and advocate the overthrow of our Government when 3½ years go by between the conviction and sentence of these defendants and they're still out on bail, they're still carrying on in the same positions they were before.

Personally, I think that Jack Hall is probably the most powerful person in this community, in spite of the fact that he is under conviction of teaching and advocating the overthrow of our Government.

Senator WATKINS. That is a judgment which has never been set aside?

Dr. PHILLIPS. That's correct. I had correspondence not long ago with a Federal judge on the mainland, who told me that he couldn't understand why a case of this kind should be permitted to go 3½ years.

Senator JOHNSTON. Doctor, do you think it would clarify the situation or help the situation if the Department of Justice would prosecute the ILWU for having in its organization men of this type at the head of it? They have a right to prosecute them.

Dr. PHILLIPS. There is nothing wrong with the ILWU rank and file. Once that union supplanted its Communist leaders with clean leaders, I think that it could be a marvelous power of good for labor and for the community.

Senator JOHNSTON. Well, don't you think that the organization would clear itself of these men if the Department of Justice itself would prosecute the union for having these men at the head of it? They have a right to do it under the law on the statute book.

Senator WELKER. And then get a conviction and wait 3½ years on appeal?

Mr. MORRIS. Do you have any other concrete examples of the reaction to the delay, Dr. Phillips?

Senator JOHNSTON. Just one thing. I want to put in at this place here the section of the act that gives the Attorney General a right to prosecute. I want this inserted into the record. He has that right and I believe it would clear up this situation.

Senator BUTLER. And I would like for it to be stated at this point that when I was working on that act, to have it enacted and made a part of the law of the United States, I was labeled as a Red-baiter and the worst kind of a person that ever lived in America.

Senator JOHNSTON. That's right.

Senator BUTLER. And I took a lot of abuse for putting it on the books.

Senator JOHNSTON. That's the reason we passed it.

Senator WELKER. Very well. Senator Johnston's exhibit will be inserted in the record at this point, the whole thereof.

Mr. Arens, will you see that the reporter gets this?

Mr. MORRIS. I will see that he gets it, Senator.

Senator WELKER. Let's have it done now.

(The document referred to is as follows:)

(4A) The term "Communist-infiltrated organization" means any organization in the United States (other than a Communist-action organization or a Communist-front organization) which (A) is substantially directed, dominated, or controlled by an individual or individuals who are, or who within 3 years have been actively engaged in, giving aid or support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title, and (B) is serving, or within 3 years has served, as a means for (i) the giving of aid or support to any such organization, government, or movement, or (ii) the impairment of the military strength of the United States or its industrial capacity to furnish logistical or other material support required by its Armed Forces: *Provided, however,* That any labor organization which is an affiliate in good standing of a national federation or other labor organization whose policies and activities have been directed to opposing Communist organizations, any Communist foreign government, or the world Communist movement, shall be presumed *prima facie* not to be a "Communist-infiltrated organization." (Internal security manual (revised) provisions of Federal statutes, Executive orders, and congressional resolutions relating to the internal security of the United States (through June 30, 1955, revision of S. Doc. No. 47, 83d Cong., 1st sess., pp. 85-86).)

Senator WELKER. Now proceed.

Dr. PHILLIPS. Just a couple more examples which I submit in substantiation of what I've had to say about the effect of all these Communist activities, the Smith Act trial, and the propaganda, on this community.

This attitude that I have mentioned, on the part of the community that "After all that it is not very—it can't be very important if the Government doesn't do something about it," has been accentuated greatly since the publishing of accounts of the so-called testimonial dinners for convicted Communist Jack Hall, and particularly since these dinners have attracted as guests people of prominence, including Government officials and candidates for public office.

Senator WATKINS. May I observe at this point that these people were not compelled by any law to attend those testimonial dinners.

Dr. PHILLIPS. They certainly were not.

One other item. A few months ago I noticed in the public press that Thomas Yagi, an identified Communist, who has been before you, appeared by invitation before the students, I think it was at the Baldwin High School on Maui, and addressed them on, if I recall correctly, the subject of labor-management relations.

I think that too is of significance. This in spite of the fact that he had been named, by the commission on subversive activities, as an identified Communist, and his Communist activities are well known.

And in closing, I would like to make this statement in regard to the loyalty of Hawaii's people.

For 32 years I have practiced medicine in Hawaii and, as a physician, I have come into most intimate contact with literally thousands of Hawaii's people, people of all the various races who live in these islands. I feel that I know Hawaii's people. For these people I have

the highest regard and the greatest respect. They are, with very few exceptions, absolutely loyal to the United States, I am convinced, and they have been proud to be welcome as American citizens.

It is their and Hawaii's—and I will add the United States—misfortune that they are being continually subjected to pressures and influences which tend to confuse them and to make them uncertain about what we like to refer to as American principles and the American way of life. Protected from such influences and pressures, they will, I am certain, continue always to be good American citizens in every sense of the word.

That, gentlemen, concludes my testimony, unless there are further questions.

Senator WELKER. Thank you very much, Doctor. Thank you indeed. The witness will step down.

Mr. MORRIS. Thank you, Dr. Phillips.

Senator WELKER. I would like to ask the counsel to call Mr. Miyagi.

Senator BUTLER. Doctor, I would like to say this to you before you leave this room.

I wish there were another 10,000 like you in these islands. [Prolonged applause by the audience.]

Senator WELKER. The Chair would like to make the observation that we should have no demonstrations. After all, you have your own feelings, and please keep those to yourselves. Demonstrations are not in order in hearings such as this.

Call your next witness.

Mr. MORRIS. Mr. Miyagi, will you come forward?

Senator, in going through the testimony of Dr. Phillips in advance, I observed that there would be references to Mr. Miyagi during his testimony. As you know, there have been three specific references to Mr. Miyagi, and I asked Mr. Miyagi to be here, to give him an opportunity to testify about them.

Senator WELKER. Mr. Miyagi, you have heretofore been sworn.

TESTIMONY OF NEWTON KUNIO MIYAGI

Mr. MIYAGI. That's correct.

Senator WELKER. Will you be seated?

Mr. Miyagi, you heard the testimony of Dr. Phillips and his naming you I think in three separate instances. Do you have any comment whatsoever to make on that?

Mr. ANDERSEN. Mr. Morris.

Senator WELKER. You will approach the bench, please.

Mr. MORRIS. Mr. Chairman, Mr. Andersen asked in executive session to take up a—

Senator WELKER. I don't care what happened in executive session. I desire to talk to Mr. Andersen.

Mr. ANDERSEN. It was the understanding of all concerned that when a witness requested the privilege of not being televised that his wish would be respected. Now that wish has not been respected, nor has the order of the chairman of this committee been respected. The witness has been televised.

Senator WELKER. Who has televised him?

Mr. ANDERSEN. Mr. Silva has been televised and several other witnesses have been televised. Many people have seen it. Mr. Silva

got in touch with me and advised me about it. Now, as I understand it, the committee has ruled and I am sure I am expected to obey the rules as well as everybody else. Now, if the committee doesn't have proper power to enforce its rules, then I think something else should be done.

Senator WELKER. Well, now, Mr. Andersen, there is no one on this committee desiring to televise your witnesses. In fact, the personal opinion of the acting chairman, I don't think they are entitled to be televised, our rules prohibit that, and I am certain that when Senator Johnston was chairman Saturday, he saw to it that no television be had. It was not brought to our attention, and I am surprised to hear that.

Now, do you have any suggestion you would like to make about the televising of your witness?

Senator WATKINS. Mr. Chairman, before he answers that, may I make this observation that may help clear it up?

The question was first raised while I was presiding the other day. And when the request was made, I directed that no television be taken from that moment on. But television has been permitted in this hearing, up to the time that a witness requested it. And I can readily understand that the minute the witness' name was called that television was on, until he made the request and until the order had been made.

Mr. ANDERSEN. Our witnesses were televised at the witness chair answering the questions of the committee.

Senator WATKINS. I don't know about that.

Mr. ANDERSEN. Not only before they were sworn, while they were being sworn, after they were being sworn, and testifying. Now that is why I am here. I resent it, my clients resent it, they feel that the committee is not enforcing the rule, they feel that the committee could and should enforce the rule, even to the extent of ordering the television camera sequestered during this hearing.

Senator WELKER. Just a moment. I would be very happy to reiterate our order that television not be had on these witnesses. I take it that they are the witnesses that you represent. But in the spirit of fairness, I would also like you, Mr. Andersen, to have your witnesses answer the questions.

Mr. ANDERSEN. Well, that has nothing to do with the matter of ordering—

Senator WELKER. It has nothing to do with the question, that's true, but we came a long ways to get some testimony, and I notice a big objection about televising. I have seen pictures of all your clients in every newspaper that I've read here on the islands, and I haven't been aware of the fact that your clients have been televised. And I can't see—

Mr. ANDERSEN. I am sure you don't dispute my word. If you would call a few of the television cameramen and put them in the chair and ask them if they have broadcast television of my clients testifying, I assume they will tell the truth and admit it.

As I understand the rules of the committee, people are supposed to abide by them.

Senator WELKER. Yes.

Mr. ANDERSEN. We have done our best to abide by all the rules of the committee. We will continue so to do. But we would like to

have the rules enforced, not only in relation to us but in relation to everybody else. And it is just a matter of plain fairness.

Senator WATKINS. Mr. Chairman, may I as counsel a question?

Senator WELKER. Senator Watkins.

Senator WATKINS. Have you brought this to the attention of the committee prior to your statement here?

Mr. ANDERSEN. The first opportunity I had was this morning, when I directed the attention of Senator Butler and Mr. Morris to the situation.

Senator BUTLER. Where is the television camera? It should be turned off.

Senator WATKINS. When I was presiding I directed that they must not take pictures from that moment on. And I do not have, and I assume the other members of the committee do not have—just a moment, please. I do not have an opportunity to see television. I haven't seen any television of these hearings. Obviously, we can't be in the chambers conducting a hearing and at the same time watching the television reproduction somewhere else. If you hadn't called it to our attention, we wouldn't know—I didn't know until this moment.

Senator WELKER. Nor have I heard some of your clients on the radio, Mr. Andersen. It works both ways.

Mr. ANDERSEN. The radio is on around 10 o'clock at night. The television is on around 10 o'clock at night.

Senator WATKINS. I haven't seen any of those at all.

Mr. ANDERSEN. Neither have I personally.

Senator BUTLER. Mr. Chairman, I readily agreed with Mr. Andersen this morning that we had a rule that the witness be not televised against his will. And I think that every effort will be made, and I am certain the acting chairman will so rule.

Senator JOHNSTON. Mr. Chairman, may I suggest this? That in the future, when a witness comes to the stand, the attorney make the statement that this witness be not televised. And we will—

Senator WELKER. I think we had a fair understanding.

Senator JOHNSTON. See that he will not be.

Senator WELKER. Mr. Andersen and his clients—

Senator JOHNSTON. But as far as televising it, it has always been the custom of this subcommittee to televise the committee itself or any witness who did not object. So let each witness who comes to the stand object and then we will certainly uphold you and see that that witness is not televised. We will do our best.

Senator WELKER. Very well, Mr. Andersen, I think you know me well enough that I will try and abide by your wishes, the wishes of your clients. So you will return to counsel chair and we will proceed.

Mr. ANDERSEN. One question. Do I have your assurance—

Senator WELKER. Well, now, listen. I don't run the television camera, and I am going to do the best I can to run this committee while I am chairman.

Mr. ANDERSEN. You run the hearing.

Senator WELKER. I am going to do the best I can to run this committee while I'm chairman.

Mr. ANDERSEN. Well, Mr. Chairman, if there is any more televising of the witnesses that I represent, they will not testify thereafter.

Senator WELKER. Well, they haven't testified yet, only as to their names.

Mr. ANDERSEN. They will not testify thereafter.

Mr. MORRIS. Mr. Chairman, may I ask—

Senator WELKER. Now, is it understood that there are no television cameras on the witness now before the committee?

Mr. JOE ROSE. May I answer the question?

Senator WELKER. You're not a sworn witness.

Senator JOHNSTON. He's a television man.

Mr. JOE ROSE. I just wanted to ask a question, if I may.

Senator WELKER. Proceed.

Mr. ROSE. The ruling is, Mr. Andersen has requested as of this moment that there will be no further televising of his witnesses or the witnesses that he represents. Is that the understanding?

Mr. ANDERSEN. That was always our request and was always the order of the Chair.

Mr. ROSE. That is not the question I am asking, Mr. Andersen. The question I am asking right now, Is that your request at this moment?

Mr. ANDERSEN. Our request is no television at any time, in or out of this room, be taken while any witness is testifying.

Senator WELKER. Just a moment, Mr. Andersen. You know better than to tell us what to do outside of this room.

Mr. ANDERSEN. While testifying, that's all.

Senator WELKER. I noticed that a number of your witnesses were televised out in the hall the other day.

Mr. ANDERSEN. While the witness is in the chair. I am sure we understand each other.

Senator WELKER. Right. But don't make a statement that out of the room they not be televised. That is not part of our—

Mr. ANDERSEN. They took the camera out of the room.

Senator WELKER. Now be seated and let's proceed.

Senator EASTLAND, I understand you desire to make a statement.

Senator EASTLAND. No. I said that the rule is that the witness can request that he not be televised, and we will abide by that request. But the committee, of course, can be televised; the lawyers can be televised. But the cameras should not be turned on the witness if he so requests.

Senator BUTLER. And that will apply with equal force, whether or not the camera is inside or outside of the building.

Senator EASTLAND. Yes.

Senator WELKER. All right. Let's proceed.

Mr. ANDERSEN. I assume my recent statement regarding the witness' reluctance to be televised can be deemed the statement of the witness.

Senator WELKER. I didn't hear you, Mr. Andersen.

Mr. ANDERSEN. I assume my recent statement regarding the witness' reluctance to be televised can be deemed the statement of the witness.

Senator WELKER. Yes, indeed. Now, may I have this understanding with the television people? That they will not turn their cameras on the witness while they are testifying.

Mr. ROSE. Ours is channel 2.

Senator WATKINS. How many channels do we have represented here?

Mr. ROSE. We have two here.

Senator WELKER. I think most everyone understands, not only Counsel Andersen, but the entire committee are busy following the testimony; they can't be watching the cameras all the time. If your clients have been injured in any way by television pictures, we are sorry, because it violates a rule of this committee, and you certainly were correct, all of your clients made their position clear when they took the witness stand.

Now, let's proceed.

Mr. ROSE. We can televise anyone else?

Senator WELKER. You can televise anyone, Dr. Phillips or any witness appearing who doesn't object to it. I take it, Mr. Andersen, that all of your clients will object. May we have that stipulation?

Mr. ANDERSEN. They will, yes, so far as I know.

Senator WELKER. All of your clients will object.

Senator WATKINS. May I ask another question? Does Mr. Andersen object to being televised? [Laughter.]

Mr. ANDERSEN. I personally have no objection, sir, but as my client doesn't wish it, I too do not wish it.

Senator WELKER. You are a very handsome gentleman.

All right, let's go.

Mr. MORRIS. Mr. Miyagi, you have been previously sworn, have you not, sir?

Mr. MIYAGI. That is correct.

Mr. MORRIS. Now, Mr. Miyagi, Dr. Phillips testified this morning that you were on the legislative committee of the ILWU, you were 1 of 9 members of the legislative committee, and that you did engage in political activity, and that you endeavored to exert an influence on the last election. Is that accurate testimony, Mr. Miyagi?

(The witness consults with his counsel.)

Senator WELKER. Let the record show that the witness is conferring now with his counsel.

Will you answer the question?

Mr. MIYAGI. I will rely on the fifth amendment.

Senator WELKER. You rely upon the fifth amendment on the basis that Counsel Andersen and I agreed on yesterday?

Mr. ANDERSEN. Yes, sir.

Senator WELKER. In executive session. You mean by that if you gave a truthful answer to that question it might tend to incriminate you or force you to bear witness against yourself?

Mr. MIYAGI. That is correct.

Mr. MORRIS. Mr. Miyagi, I am making the statement, I am not asking it. You are the secretary-treasurer of local 142. Now, as such are you acquainted with the disbursement of funds; union funds of local 142?

(The witness consults with his counsel.)

Mr. MIYAGI. I rely on the fifth amendment.

Mr. MORRIS. Dr. Phillips in the course of his testimony introduced into the figures—and we had previously introduced them, Senator—that the ILWU expends more than \$199,000 on propaganda. Are those accurate figures, Mr. Miyagi?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Mr. MORRIS. Now, Mr. Miyagi, how much money did the ILWU contribute to the defense of the seven Communists who were convicted under the Smith Act in 1953?

(The witness consults with his counsel.)

Mr. MIYAGI. I rely on the fifth amendment again.

Mr. MORRIS. Mr. Miyagi, did the union contribute to the defense of the defendants other than Jack Hall, which defendants were not connected in any way with the ILWU?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Mr. MORRIS. Specifically, did you contribute to the ILWU—did the ILWU contribute union funds, in other words money taken from the general membership of the union, to the defense of John Reinecke, who was not connected in any way with the ILWU?

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did the union contribute funds to the defense of Charles Fujimoto, who has been described in these hearings as being the chairman of the Communist Party of these islands; did it contribute union funds collected from the rank and file of the union to the defense of Charles Fujimoto, who had no connection whatever with the ILWU?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Mr. MORRIS. Did the ILWU contribute to the defense of Mrs. Charles Fujimoto, who, to your knowledge, was not connected in any way to the ILWU? Did the ILWU contribute union funds to her defense?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Mr. MORRIS. Mr. Chairman, I would repeat the same with respect to the others but I think the answers would be obvious.

Senator WELKER. Mr. Miyagi, are you familiar with the proceedings of the 11th biennial convention of the International Longshoremen's and Warehousemen's Union held at Long Beach, Calif., April 4 to 8, 1955?

(The witness consults with his counsel.)

Senator WELKER. Let the record show the hesitation of the witness.

Mr. MIYAGI. Could you repeat the question again, please?

Senator WELKER. Are you familiar with the proceedings of the 11th biennial convention of the International Longshoremen's and Warehousemen's Union held at Long Beach, Calif., April 4 to 8, 1955?

Mr. MIYAGI. Same answer.

Senator WELKER. "Same answer." Do you know of anyone else under the canopy of heaven who has the name Newton Miyagi?

(The witness consults with his counsel.)

Mr. MIYAGI. Could you explain the question, Mr. Chairman?

Senator WELKER. Do you know of anyone else under the canopy of heaven who has the same name as yours? If so, tell us about it.

(The witness consults with his counsel.)

Mr. MIYAGI. As far as I am concerned, I don't know; to my knowledge I don't know of any other person that has the—

Senator WELKER. To your knowledge, you don't know of any other person?

Mr. MIYAGI. That's right.

Senator WELKER. Now, in the proceedings of the 11th biennial convention of the International Longshoremen's and Warehousemen's Union, at page 77 thereof, Chairman Lawrence is reported, in the official document thereof, of that proceeding, as saying:

Thank you, Reverend Richman, for your most inspiring address. I told you. He's quite a guy when he gets rolling.

At this time I understand that local 142 of Hawaii wants to make a presentation.

Newton Miyagi of local 142, come on up here.

Brother Newton Miyagi. [Loud applause.]

Delegate MIYAGI, local 142. Brother Chairman, brothers and sisters, fraternal delegates, and guests. I have been asked by the Speaker of the House of Representatives of the 28th session of the legislature in the Territory of Hawaii to help them out in presenting a gavel to our great president, Harry Bridges. [Loud applause.]

Now, Mr. Miyagi, did you do that; did you make those remarks?

(The witness consults with his counsel.)

Mr. MIYAGI. I rely on the fifth amendment.

Senator WELKER. Have you ever been at Long Beach, Calif.?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Senator WELKER. Have you ever been to any convention of any type whatsoever?

(The witness consults with his counsel.)

Mr. MIYAGI. Will you specify what convention you are talking about?

Senator WELKER. I didn't hear you, Mr. Miyagi.

Mr. MIYAGI. Will you specify the convention you are talking about?

Senator WELKER. Well, did you ever go to a Boy Scout convention or American Legion convention, Veterans of Foreign Wars convention, Disabled American War Veterans convention; any of those; or any other convention that you can name to me?

Mr. MIYAGI. Same answer.

Senator WELKER. You wouldn't tell this committee whether or not you ever attended an American Legion convention or any other convention? As a matter of fact, it is true that you did present the gavel to Harry Bridges at Long Beach, Calif., at the time and place mentioned by my prior questioning. Is that true?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Senator WELKER. You mean that a truthful answer given by you to that question, that it would tend to incriminate you?

(The witness consults with his counsel.)

Mr. MIYAGI. That is correct.

Senator WELKER. I didn't hear you.

Mr. MIYAGI. That is correct.

Senator WELKER. What?

Mr. MIYAGI. What you just said is correct. In other words, otherwise I wouldn't claim the fifth amendment.

Senator WELKER. I didn't get your answer. What was your answer again, Mr. Miyagi?

Mr. MIYAGI. The statement you made, relying—my answer would be—might tend to incriminate myself is correct.

Senator WELKER. Now, would you tell me what law you possibly could be violating by presenting a gavel to Harry Bridges or anybody else?

(The witness consults with his counsel.)

Senator WELKER. Let the record show the consultation with counsel and the delay in answering the question.

(The witness consults with his counsel.)

Mr. MIYAGI. I rely on my attorneys for the legal advice.

Senator WELKER. You rely on what?

Mr. MIYAGI. My attorneys.

Senator WELKER. Well, you rely—

Senator WATKINS. You rely on the fifth amendment. Are you relying on the fifth amendment?

Senator WELKER. That answer is stricken and you are ordered and directed to answer that question. You are not going to rely upon your attorneys. The fifth amendment is a personal privilege granted to you only, Mr. Miyagi, and you will take that personal privilege granted to you by the fifth amendment to the Constitution, and not rely upon your attorneys, who are not sworn and are not testifying here. Now, you're ordered and directed to answer that question.

(The witness consults with his counsel.)

Mr. MIYAGI. I rely on the fifth amendment not to answer that question.

Senator JOHNSTON. Do you know your good friend Harry Bridges?

Mr. MIYAGI. Same answer.

Senator JOHNSTON. What's that?

Mr. MIYAGI. Same answer.

Senator JOHNSTON. "Same answer." In dealing with him did you ever think that you would have to not even say that you knew him?

Mr. MIYAGI. Same answer.

Senator JOHNSTON. Do you think just knowing Harry Bridges would incriminate you?

Mr. MIYAGI. Same answer.

Senator JOHNSTON. How could that incriminate you?

(The witness consults with his counsel.)

Senator WATKINS. Apparently, Senator, he feels it would incriminate him to know him.

Mr. MIYAGI. Same answer.

Senator WELKER. Have you ever seen Harry Bridges?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Senator WELKER. As a matter of fact, you saw him out here in the demonstration in the palace last week, did you not?

Mr. MIYAGI. Would you repeat that question again?

Senator WELKER. As a matter of fact, you saw Mr. Harry Bridges at the demonstration held prior to coming down here to the palace, did you not?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Senator WELKER. Have you ever seen Jack Hall?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Senator WELKER. You saw him right out here in the hallway when the demonstration was going on, the alleged demonstration?

Mr. MIYAGI. Same answer.

Senator WELKER. Even though I am not sworn, I will make this observation—that I saw you not 2 feet from Jack Hall. Is that correct or incorrect?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Senator WELKER. Senator Johnston, your question.

Senator JOHNSTON. So you think that it would incriminate you to say that you even know Harry Bridges?

(The witness consults with his counsel.)

Senator JOHNSTON. What is your answer?

(The witness consults with his counsel.)

Mr. MIYAGI. It might tend to incriminate me. That is the reason I am claiming the privilege.

Senator JOHNSTON. Do you make that statement because you think that he is a Communist and for you to deal with him you would be guilty of some crime?

Mr. MIYAGI. Same answer.

Senator BUTLER. Do you think it would tend to incriminate you to have the people know that you are identified with the ILWU?

(The witness consults with his counsel.)

Mr. MIYAGI. The same answer.

Senator WELKER. Now may I ask you, have you ever seen, oh, any member of our defense services here on this island, say Admiral Stump; have you ever seen him?

(The witness consults with his counsel.)

Senator WELKER. Let the record show the consultation.

Mr. MIYAGI. The only thing I recollect, seeing him in the newspaper.

Senator WELKER. I didn't hear you.

Mr. MIYAGI. The only thing, the only recollection I have is, I saw his face in the newspapers.

Senator WELKER. You have seen his face in the newspapers?

Mr. MIYAGI. Yes.

Senator WELKER. Have you ever seen Harry Bridges' face in the newspapers?

Mr. MIYAGI. Same answer.

Senator WELKER. Now, have you ever seen or do you know one Charles Kauhane?

Mr. MORRIS. Kauhane.

Senator WELKER. Kauhane.

Mr. MORRIS. Kanhane. K-a-u-h-a-n-e.

Senator WELKER. All right; I stand corrected. Kauhane.

(The witness consults with his counsel.)

Mr. MIYAGI. Could you repeat that question again, please?

Senator WELKER. Do you know or have you ever seen one Charles Kauhane?

Mr. MIYAGI. Yes; I believe so.

Senator WELKER. Where did you see him?

(The witness consults with his counsel.)

Senator WELKER. Let the record show the consultation and the delay in answering.

Mr. MIYAGI. Same answer.

Senator WELKER. Now, as a matter of fact, and I beg of you to be fair with me now; you have told me you have seen him, you've met

him. Come on and level with me and the committee. As a matter of fact, he is the man who gave you the gavel that you presented to Harry Bridges at Long Beach, Calif., at the 11th biennial convention held April 4 to April 9, 1955? Isn't that a fact?

Mr. MIYAGI. Same answer.

Senator WELKER. Well, then, how did you happen to meet Mr. Kauhane?

(The witness consults with his counsel.)

Senator WELKER. Come on. Why do you hesitate?

Mr. MIYAGI. Same answer.

Senator EASTLAND. Have you had any dealings with Soviet military intelligence?

(The witness consults with his counsel.)

Mr. MIYAGI. Would you repeat that again, please?

Senator EASTLAND. Have you had any dealings with Soviet military intelligence?

Mr. MIYAGI. On that I would like to make a statement, if it is O. K. with the Chairman.

Senator WELKER. You answer the question. You haven't been making many statements. I want you to answer that question propounded to you by Chairman Eastland. I order and direct you to answer it.

(The witness consults with his counsel.)

Mr. MIYAGI. I will rely on the fifth amendment.

Senator WELKER. You want to tell the people of this fine island, the people of this Territory, that you rely upon the fifth amendment to the Constitution of the United States as to whether or not you have had any dealings with the Soviet intelligence? Is that your answer?

(The witness consults with his counsel.)

Senator WELKER. Well, I assume military intelligence would be—it's an all—

(The witness consults with his counsel.)

Senator WELKER. You have hesitated a long time. Now come on and let's have an answer.

Mr. MIYAGI. I still would like to have the privilege of making a statement on it.

Senator WELKER. You will answer that question. Will you, please?

Mr. MIYAGI. Fifth amendment.

Senator WELKER. "Fifth amendment."

Mr. MIYAGI. That's right.

Senator WELKER. Have you met any members of the Soviet Communist military intelligence on this isle or any other isle of the Hawaiian Islands?

Mr. MIYAGI. Same answer.

Senator WELKER. Can you give me an idea as to what you would think, or what thousands of workers who pay dues to your union would think, if they knew that you refused to answer that question because of the fifth amendment and under the protection of the fifth amendment?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Senator WELKER. I don't suppose you will prepare or have prepared any pamphlet and send it to every individual member of the International Longshoremen's and Warehousemen's Union showing the fact that you refused under the fifth amendment to tell this committee of

the United States Senate whether or not you have contacted or had dealings with or had met with Communist intelligence agents; you are not going to have that done, are you?

Mr. MIYAGI. Same answer.

Senator WATKINS. Mr. Chairman.

Senator WELKER. Senator Watkins.

Senator WATKINS. May I point out that the witness probably would be correct in claiming the privilege of the fifth amendment with reference to the questions of dealing with the Soviet military intelligence; to admit that he had had dealings with them would certainly be an incrimination. It certainly would be something that would be very, very damaging against him. In that position I think he is probably correct in taking advantage of the fifth amendment. However, he is also in the position of having people make whatever interpretation they wish to make with reference to his claiming the fifth amendment in a circumstance of that kind.

Senator WELKER. Once again I want to ask you why you told me under oath that you had met Mr. Charles Kauhane and from that time on you have refused to tell me anything else whatsoever about the meeting. Can you tell where it occurred and what you discussed, whether it was a casual little meeting or you had something to discuss about legislative matters. Could you do that for the committee, please?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Senator WELKER. Now certainly you don't want to leave the inference, do you, that your meeting or discussing anything with Mr. Kauhane might tend to incriminate you, do you?

(The witness consults with his counsel.)

Mr. MIYAGI. Same answer.

Senator WELKER. Any further questions?

Mr. MORRIS. Mr. Chairman, will you direct the witness to be present at the afternoon session? There is a matter that I can take up at that time.

Senator WELKER. Yes. You are ordered and directed to be present this afternoon, at this afternoon's session, and you will be further interrogated. And you will step aside.

Mr. MORRIS. Senator, we have three more witnesses for this morning. The first is David Evans Thompson. Mr. Thompson, will you come forward, please?

Senator, in connection with this witness I would like to mention in advance of his appearance that he has received an honorable discharge from the United States Marine Corps, having been severely wounded in Iwo Jima, has been awarded the Purple Heart. I would like to point out to the committee those facts before he testifies.

Senator WELKER. Very well.

Mr. THOMPSON. I object to being televised.

Senator WELKER. Your objection certainly will be honored, but I think they are televising the committee, Mr. Thompson, and not you. I don't know who they're televising but I know they're not pointing at you. So you be seated.

Will you raise your right hand and be sworn? Do you solemnly swear the testimony you give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. THOMPSON. I do.

TESTIMONY OF DAVID EVANS THOMPSON

Senator WATKINS. Mr. Chairman, does it appear in the record already that the witness is represented by counsel?

Senator WELKER. Yes. We had that stipulation.

Senator WATKINS. Yes.

Mr. ANDERSEN. It may continue.

Senator WELKER. I want the record to show.

Senator WATKINS. So there will be no question about it later.

Mr. ANDERSEN. Yes.

Mr. MORRIS. Mr. Chairman, I have some questions I can quickly run through, and I think we have here—we have prepared most of our information in memorandum form. I would like to ask the witness about this particular information and then offer the memorandum for the record.

Mr. Thompson, you were born in Salem, Oreg., in 1919, were you not, sir?

Mr. THOMPSON. I was.

Mr. MORRIS. You were educated at four American colleges or universities?

Mr. THOMPSON. I was.

Mr. MORRIS. Including the University of Hawaii in 1939-41?

Mr. THOMPSON. That is correct.

Mr. MORRIS. You received your bachelor's degree from that institution?

Mr. THOMPSON. I did.

Mr. MORRIS. You were honorably discharged from the United States Marine Corps as a first lieutenant?

Mr. THOMPSON. I was.

Mr. MORRIS. After having first been severely wounded in action on Iwo Jima?

Mr. THOMPSON. That is correct.

Senator WELKER. Now, may I interrupt? What other colleges or universities did you receive education at?

Mr. THOMPSON. The University of Nevada, Willamette University as an undergraduate; University of California and the University of Chicago as a graduate student.

Senator WELKER. As a matter of fact, you had five then, instead of four, didn't you?

Mr. THOMPSON. That is correct.

Mr. MORRIS. What degree do you hold, Mr. Thompson?

Mr. THOMPSON. Bachelor of arts.

Mr. MORRIS. Now, in Honolulu prior to World War II, did you associate with persons now known to be members of the Communist Party at that time?

Mr. THOMPSON. I decline to answer that question on the grounds of the first and fifth amendments.

Mr. MORRIS. After you were—

Senator WELKER. Just a moment. The first amendment is not a ground for objection here. That portion of your answer will be stricken. But we do recognize the fifth amendment, and that fifth amendment objection, as stated heretofore by your counsel, will be honored.

Mr. MORRIS. After your return from the Marine Corps, did you come to Honolulu in 1946?

(The witness consults with his counsel.)

Mr. THOMPSON. I did.

Mr. MORRIS. Did you become a formal member of the Communist Party?

(The witness consults with his counsel.)

Mr. THOMPSON. Same answer.

Mr. MORRIS. That is, you claim your privilege under the fifth amendment?

Mr. THOMPSON. Under the first and fifth.

Mr. MORRIS. May I have a ruling on the first, Senator? The witness has claimed privilege under the first and fifth amendments. You have previously ruled that you will not honor the claim of privileges under the first but will under the fifth. Will you so rule again?

Senator WELKER. I will so rule again. And may we have a stipulation that the chairman so rules on the first amendment but will honor his fifth-amendment objection?

Mr. ANDERSEN. The witness will—

Senator WELKER. Now, for the sake of time—do you want to go over the thing, over and over again, Mr. Andersen? We will do it.

Mr. ANDERSEN. We will stipulate that you will apparently make the same order.

Senator WELKER. I am not "apparently"; I'm doing it.

Mr. ANDERSEN. We will so stipulate.

Senator WELKER. Very well, sir.

Mr. ANDERSEN. That you will make the same order.

Senator WELKER. Very well.

Mr. MORRIS. Did you join the miscellaneous unit of the Communist Party?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Did you later join the Manoa section of the Communist Party?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Did you attend important meetings of the Communist Party in Hawaii?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Did you attend Communist Party meetings other than the meetings of your own cell?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Was your home used for Communist Party meetings?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Have you been employed for the past 10 years by the International Longshoremen's and Warehousemen's Union?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Have you been educational director since 1950?

Mr. THOMPSON. Same answer.

Mr. MORRIS. And, as such, have you been in charge of propagandizing the ILWU rank and file?

Mr. THOMPSON. Same answer.

Mr. MORRIS. In that position, have you conducted the ILWU's efforts to introduce pro-Communist literature directly into the public schools?

Mr. THOMPSON. Same answer.

Mr. MORRIS. And churches of Hawaii?

Mr. THOMPSON. Same answer.

Mr. MORRIS. As well as its attempts to achieve the same effect by distributing such literature to individual schoolteachers?

Mr. THOMPSON. Same answer.

Mr. MORRIS. By direct mail?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Rather than through official channels of the Territorial department of public instruction?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Have you had supervision of the ILWU Book Club in Hawaii?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Now, have you, therefore, headed the ILWU's educational department?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Has the ILWU Book Club, under you, featured the dissemination of pro-Communist books?

Mr. THOMPSON. Same answer.

Mr. MORRIS. And other material?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Specifically, Harvey Matusow's False Witness?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Specifically, John Steuben's Strike Strategy?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Now, are these books part of the Soviet propaganda campaign being issued to advance the Communist conquest of the world?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Are these materials made available to ILWU members at special libraries?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Maintained by the union?

Mr. THOMPSON. Same answer.

Mr. MORRIS. And on most of the plantations on the islands?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Has a significant amount of the output of your department been recognized to be pro-Soviet propaganda?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Mr. Chairman, I have read from this paper and I have asked questions from this paper, which has been prepared by the staff, and I have given the witness now an opportunity to deny any of the statements which we believe are accurate. And I would like to offer that in the record at this time, Senator.

Senator WELKER. I would be glad to have that offered, but just one moment. You asked him a question about one Harvey Matusow that I have had a little experience with.

Have you ever met Mr. Matusow?

Mr. THOMPSON. No.

Senator WELKER. You have read this book The False Witness? (The witness consults with his counsel.)

Mr. THOMPSON. Same answer.

Senator WELKER. Same answer. Do you know where Mr. Matusow is at this time?

Mr. THOMPSON. No.

Senator WELKER. Well, he's in the "clink," isn't he? For perjury?

Mr. THOMPSON. You have my answer.

Senator WELKER. Sir?

Mr. THOMPSON. You have my answer.

Senator WELKER. You don't know. Well, I think you had better check up. I think, however, he has been convicted and is serving his time now.

Mr. MORRIS. Mr. Thompson, do you receive propaganda material which you use in the ILWU from the firm of Cameron & Kahn?

Mr. THOMPSON. I decline to answer that on the grounds of the first and fifth amendments.

Senator WELKER. Same ruling. Do you know whether or not Cameron & Kahn published Harvey Matusow's book, *The False Witness*?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Do you receive material from International Publishers, Mr. Thompson?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Have you ever received instructions concerning the educational work of the union from the educational department of the Communist Party in New York City?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Do you receive propaganda material from New Century Publishers, a Communist Party publishing house?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Have you promoted within the ILWU the sale of the Autobiography of Louie Taruc, Philippine guerrilla leader? T-a-r-u-c.

Mr. THOMPSON. Same answer.

Senator WATKINS. Now just a moment. Did you ask the counsel a question?

Mr. THOMPSON. I did, sir.

Senator WELKER. You did not.

Senator WATKINS. I watched your lips, and you must be a ventriloquist, because I didn't see your lips move at all.

Under previous instructions of the committee, the witnesses can ask for legal advice, but counsel cannot volunteer it until the witness has actually asked for the advice. I am just cautioning you. It looked to me from this point, and I think a number of witnesses have violated that. Counsel should not speak to the witness until the witness asks for the advice.

Senator WELKER. Perhaps Mr. Thompson was not in the hearing room when that order was made. Perhaps counsel omitted to inform him of the rule. And I see quite well, as does Senator Watkins and the rest of the committee, and we couldn't see any movement of your lips, or otherwise.

I am going to say this. That if I see any more of this from any witness, I am going to ask that counsel retire from the hearing room. Because you are doing nothing but to embarrass your able counsel. So certainly all you could do is lean over and say, "May I have your

advice?" It is very simple. But I don't want to embarrass your counsel. They are very kind and fine gentlemen; they have treated me very fine. But as I stated before, it is merely embarrassing to them. Now, you will abide by that now, won't you, Mr. Thompson?

Very well. Proceed.

Mr. MORRIS. Now, Mr. Chairman, I have here a copy of the Dispatcher for January 6, 1956. The Dispatcher is a union newspaper. And they talk about the ILWU—

Senator WATKINS. What union?

Mr. MORRIS. The ILWU, Senator.

Senator JOHNSON. Let me ask one question.

Have you been fair with the union members at all times and told them that you were feeding them Communist literature?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Mr. Chairman, I would like to submit this whole list into the record with the one comment that a good percentage of these particular books which are on the ILWU Book Club list have been by authors who have appeared before this committee and when asked about the committee's evidence of their being Communists, have not been able to enter denial in the record but, instead, invoked their privilege under the fifth amendment.

I mention specifically Mr. Philip S. Foner, Mr. Carl Marzani, and Richard O. Boyer. They are three of the particular ones. Also there are publications here by the Labor Research Association, which this committee has demonstrated is a Communist association. I would like to put the whole into the record. You also notice Mr. Joseph Starobin also appears on this list. He, too, appeared before this committee and claimed his privilege under the fifth amendment.

Senator, this kind of evidence appears in great abundance, would take a great deal of time for us to go into it all specifically. I ask that we have a session with Mr. Mandel, our research director, and that he put into the record what we think is a sample collection.

You do not deny any of the things I have just said about this, do you, Mr. Thompson?

Mr. THOMPSON. Same answer.

Senator WELKER. Just a minute. I am familiar with one copy here. I see the False Witness, by Harvey Matusow. Fifty cents a copy—paper.

Now, could you tell the chairman, tell me, about the book the Man Who Never Died?

Mr. MORRIS. Which is that one?

Senator WELKER. The Man Who Never Died. I wonder who that is about?

Mr. MORRIS. I am not acquainted with it, Senator.

Senator WELKER. Do you know anything about that, Mr. Witness?

Mr. THOMPSON. Same answer.

Senator WELKER. You wouldn't know about that book, even though you are a very well-educated man?

Mr. THOMPSON. Same answer.

(A discussion of the ILWU Book Club appears in appendix 41-A.)

Mr. MORRIS. Mr. Chairman, I have here on the letterhead of the ILWU, Local 142, Education Service, 451 Atkinson Drive, Honolulu, T. H., March 30, 1955, over the signature of David E. Thompson, educational director, addressed to "Dear Teacher:"

The enclosed pamphlet In the Shadow of Liberty is mailed to you for your information. The union does not endorse the political views of many of the victims of the McCarran-Walter law, whose tragic stories are related in this pamphlet. The union does defend the principles of freedom of thought and expression, however, even for those with whom we disagree. We feel that liberty is indivisible, that a law which affects the liberty of some Americans is a menace to the liberty of all. We feel it is important that people like yourself should know what the application of this law means in actual human terms.

And there is enclosed a volume called In the Shadow of Liberty by Abner Green. Abner Green has been identified as a Communist, Senator, I think only last week or the week before, before the House Un-American Activities Committee, and he wasn't able to deny Communist Party membership.

Senator WELKER. Mr. Green's name is not Abner Green. He testified before this committee that his name was Abner something else; it is not Abner Green, his true name.

Mr. MORRIS. This is put out, Senator, by the American Committee for the Protection of Foreign Born, and I would like to show this letter, which contains his signature, to Mr. Thompson, and ask him if he did send this letter to teachers in Hawaii?

(The witness consults with his counsel after being handed the document in question.)

Mr. THOMPSON. Same answer.

Senator WELKER. Mr. Thompson, I am sending you a blank piece of paper and asking you to write your signature on that blank piece of paper.

(The witness consults with his counsel.)

Mr. THOMPSON. I refuse on the same grounds.

Senator WELKER. You mean to give your signature, to write your signature on a plain piece of paper might tend to incriminate you?

Mr. THOMPSON. That is correct.

Senator WELKER. As a matter of fact, you know that if you wrote your signature we could compare it with the exhibit just sent to you by Counsel Morris, and it would be the same. Isn't that a fact?

Mr. THOMPSON. I decline to answer that question on the ground previously given.

Senator WELKER. I hope the thousands of workers all over these islands will know just exactly what sort of testimony we have been receiving here. Just what do you suppose, Mr. Thompson, would happen if a fellow Marine would refuse to answer the questions as you have refused to answer here, one who is on active duty. You know what he would get, don't you?

(The witness confers with his counsel.)

Mr. THOMPSON. I think that is—

Senator WELKER. Do you or don't you?

Mr. THOMPSON. I think that is a statement instead of a question.

Senator WELKER. Sir?

Mr. THOMPSON. I think that's a statement.

Senator WELKER. Well, I don't care what you think. I think it is a question, and will you answer it? Do you know what a fellow Marine would get if he were on active duty, if he would be before a committee or one of his superior officers and refuse to answer questions as you have here this morning?

(The witness consults with his counsel.)

Senator WELKER. Let the record show the long pause.

(A 2-minute recess was taken.)

Senator WELKER. Order in the hearing room, please.

Mr. THOMPSON. I know what would happen to a marine in that sense. However, I have a constitutional protection and I am availing myself of it.

Senator WELKER. The marine has a constitutional protection, too, as you have. In fact, he is fighting all over the world to maintain the Constitution of the United States. He has the very same right that you, as an ex-Marine officer, to answer. And you know as an ex-Marine officer what he would get if he refused to answer the questions propounded to him, don't you?

Mr. THOMPSON. You have my answer.

Senator WELKER. I have your answer. And I imagine the Marines all over the world will be very happy to hear that that answer, coming from you especially.

Mr. MORRIS. Senator, I would like to say at this time that we have subpoenaed the records of the Territorial commission, and Mr. Mandel, our research director, has had access to these records, and the letter that I presented to the witness just now was taken from the records. And I would like for Mr. Mandel, who has been sworn, to so state for the record, Senator.

Senator WELKER. Proceed, Mr. Mandel.

Mr. MANDEL. I so state.

Mr. MORRIS. Mr. Thompson, to what extent do you send literature, such as this particular book by Abner Green, to schoolteachers in Hawaii?

Mr. THOMPSON. I decline to answer that question on the grounds previously given.

Mr. MORRIS. Have you been—did you for a period, that you were transferred, did you not pay dues to the Communist Party in Hawaii while you were awaiting a recommendation from the San Francisco branch of the Communist Party?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Have you attended executive board meetings at Ewa Beach?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Have you attended a special convention of the Communist Party in July of 1948 to decide whether or not the Communist Party of Hawaii should remain in the open or go underground?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Mr. Chairman, may we finish with this particular witness in the way I asked, namely, that Mr. Mandel make selections from abundant material and put what we think appropriate in our record?

Senator WELKER. Yes. So ordered.

(The memorandum above referred to was marked "Exhibit No. 389" and reads as follows:)

EXHIBIT No. 389

DAVID EVANS THOMPSON

This witness was born in Salem, Oreg., in 1919. He was educated at four American colleges or universities, including the University of Hawaii, 1939-41, receiving his bachelor's degree from the latter institution. He was honorably

discharged from the United States Marine Corps as a first lieutenant after having been severely wounded in action at Iwo Jima.

In Honolulu, prior to World War II, the witness associated with several persons now known to have been Communist Party members at the time. After his return to Honolulu in 1946, Thompson was identified with the Communist Party as a formal member, belonging to the miscellaneous and Manoa cells of the party. He attended important meetings of the Communist Party of Hawaii, other than gatherings of his own cell. His home was used for Communist Party meetings.

Thompson's employment for the past 10 years has been with the International Longshoremen's and Warehousemen's Union. He has been its educational director since 1950 and, as such, in charge of propagandizing the ILWU rank and file. In that position, he has also conducted the ILWU's efforts to introduce pro-Communist literature directly into the public schoolrooms of Hawaii, as well as its attempts indirectly to achieve the same effect by distributing such literature to individual schoolteachers by direct mail rather than through official channels of the Territorial department of public instruction.

Supervision of the ILWU Book Club in Hawaii rests with the ILWU's educational department, headed by Thompson. The ILWU Book Club has featured the dissemination of many pro-Communist books and other materials, such as Harvey Matusow's False Witness and John Steuben's Strike Strategy. These materials are made available to ILWU members at special libraries maintained by the union on most of the plantations in the islands.

While perhaps most of the work of the department headed by Thompson is of the legitimate type indulged in by trade unions not led by Communists, the fact remains that a significant amount of the output of the department is recognizably pro-Communist propaganda.

Mr. MORRIS. I have no more questions of this particular witness, Senator.

Senator WELKER. Senator Watkins.

Senator WATKINS. I have no questions.

Senator WELKER. Senator Butler.

Senator BUTLER. I have no questions.

Senator WELKER. Senator Johnston.

Senator JOHNSTON. If we should go to war, would you be with America or with Russia?

Mr. THOMPSON. I would be with the United States. My record speaks for itself.

Senator JOHNSTON. And would you be true to them all the time or would you continue to aid the Soviet under cover, like you are here at the present time, according to the record?

Mr. THOMPSON. I am a loyal American, dedicated to this Government; I am not a spy, have never been engaged in espionage or sabotage, and will not so engage in the future and I am not so engaged now.

Senator JOHNSTON. So you have no connections, then, with the Soviet Government in any way?

Mr. THOMPSON. You have my answer, sir.

Senator JOHNSTON. Your answer is what, in regard to having any dealings with the Communists? You have no dealings with them to help overthrow our Government. Is that right?

Mr. THOMPSON. I decline to answer that question on the grounds previously given.

Senator WELKER. So you are a loyal American that you just now stated, that you're not a saboteur or a spy, and refuse to answer Senator Johnston's question?

May I ask you this hypothetical question? Assuming you did rejoin the services in a war against the Communist conspiracy, Soviet Russia, and you received a directive from a high official of the Soviet conspiracy. Would you obey that directive?

Mr. THOMPSON. I have sworn to defend my country in the past and I carried out my oath, and I would carry it out in the future.

Senator WELKER. Yes. All right. Now, don't you suppose you can help your country here in a very, very serious situation, one of the bastions of defense of all the world, we're sitting here taking testimony, and you taking the fifth amendment numerous times; couldn't you tell us now just what kind of a loyal American you are? Do you think it is being a loyal American to send Harvey Matusow's book the False Witness to different educational institutions or teachers thereof, or to workers in the union, or to different individuals? Do you think that's being a loyal American?

Mr. THOMPSON. Would you mind repeating your question?

Senator WELKER. Read it to him.

(The question was read by the reporter.)

Mr. THOMPSON. I take it your question is whether or not I have sent this book to individuals. I decline to answer that question on the grounds previously given.

Senator WELKER. Now, being the great loyal American that you say you are, and at one time you were, but as of this time, being a great loyal American that you have told us you are, have you ever sent any books or pamphlets to any union, to any individual, to any person or persons in this Territory?

Mr. THOMPSON. I decline to answer that question on the grounds previously given.

Senator WELKER. Why, if you're such a loyal American?

Mr. THOMPSON. Same answer.

Senator WELKER. "Same answer." The fifth amendment?

Mr. THOMPSON. The first and the fifth.

Senator WELKER. I say the fifth. We have had a ruling on the first.

Have you sent any literature, such as interrogated, questioned—you were questioned about by counsel Morris, to any of your buddies of the Marine Corps who fought so valiantly at Iwo Jima?

Mr. THOMPSON. Same answer.

Senator WELKER. You haven't, have you?

Mr. THOMPSON. Same answer.

Senator WELKER. You haven't sent any to the American Legion, have you?

Mr. THOMPSON. Same answer.

Senator WELKER. Are you a member of the American Legion?

Mr. THOMPSON. No, I'm not.

Senator WELKER. Veterans of Foreign Wars?

Mr. THOMPSON. No, I'm not.

Senator WELKER. Disabled American War Veterans?

Mr. THOMPSON. I am.

Senator WELKER. You're a member of that?

Mr. THOMPSON. I am.

Senator WELKER. Have you sent them any literature?

Mr. THOMPSON. Same answer.

Senator WELKER. "Same answer." Have you ever addressed the Disabled American War Veterans?

Mr. THOMPSON. I have.

Senator WELKER. And what did you talk about?

Mr. THOMPSON. Veterans' affairs.

Senator WELKER. Veterans' affairs. Can you tell us about what you discussed?

Mr. THOMPSON. Yes. We discussed veterans' benefits, activities of the organization, parties, things of that sort.

Senator WELKER. Well, that's very, very wholesome. I think that all the members of the committee have done the same.

Now, will you tell me any other organizations you have addressed?

Mr. THOMPSON. Same answer.

Senator WELKER. "Same answer." Are there some organizations that you would rather not mention that you have addressed?

Mr. THOMPSON. Same answer.

Mr. MORRIS. Senator, may I ask the witness one question?

Senator WELKER. Yes.

Mr. MORRIS. Are you presently a Communist, Mr. Thompson?

Mr. THOMPSON. Same answer.

Senator WELKER. Assuming the Disabled War Veterans would ask you the question "Are you now or have you ever been a member of the Communist Party?" what would your answer be?

Mr. THOMPSON. I decline to answer your question on the grounds previously given.

Senator WELKER. On the fifth amendment. Is that correct?

Mr. THOMPSON. The first and the fifth.

Senator WELKER. You desire to argue with me about that ruling, but the ruling stands.

Now, I have no further questions, Mr. Thompson.

I hope some of the disabled American war veterans are in the hearing room and have heard your testimony and your statement that you were a loyal American, and I hope they will compare that with the testimony given by you under oath here today.

I think every member of this committee has served in the armed services. We were not as unfortunate as you, but we are loyal Americans too. And I'll say this, that if you would desire to change places with me, you act as chairman of this committee and I will take the oath to my God, and I will answer truthfully and honestly and proudly the fact that I have never been a member of the Communist Party and that I am a loyal American.

Would you desire to do that?

Mr. THOMPSON. No; thank you.

Senator WELKER. Sir?

Mr. THOMPSON. No; thank you. I don't desire the chair of this committee.

Mr. MORRIS. Senator, before concluding with this witness, I would like to make this particular note at this particular time. That the work of the Senate Internal Security Subcommittee is such that we are very desirous of having from this particular witness the information bearing on the extent to which he has sent his ILWU literature to various teachers on the islands. And I ask again, because it is necessary for our record and we would like to know, I would like to ask this witness again to reconsider and ask if he will tell us to what extent he has sent ILWU literature to teachers in Hawaii?

Mr. THOMPSON. My answer is the same.

Mr. MORRIS. Even though you know we require it for our record.

I have no more questions.

Senator WELKER. Do you realize, Mr. Thompson, that nearly every member of this committee, I think all of the members of this committee, have read the False Witness, we've read many of the documents you were questioned about, and we didn't feel that that would incriminate us. Now, can't you tell us whether or not you have sent these books around?

As a matter of fact, I sent the False Witness to a friend of mine. I don't believe I incriminated myself.

Mr. THOMPSON. My answer is the same.

Senator WELKER. Your answer is the same.

Senator JOHNSTON. Have you received or are you receiving at the present time any disability from the United States Government?

Mr. THOMPSON. I receive retired pay.

Senator JOHNSTON. Retired pay.

Senator WELKER. Do you receive anything for your wounds received in action, compensation for your wounds?

Mr. THOMPSON. That's what the retired pay is based on.

Senator WELKER. I see. How much do you receive from the Government? One hundred percent disability?

Mr. THOMPSON. One hundred percent disability for the loss of a leg.

Senator WELKER. For the loss of a leg.

Mr. MORRIS. Mr. Chairman, we have two other witnesses that we would like to hear this morning. I know the hour is getting late, but we can dispose of them, I think, with 3 or 4 questions each.

Senator WELKER. I want to hurry these proceedings along because I don't know how under the sun we're going to finish in the time allotted to us. And as chairman I am willing to run a little overtime, if the committee is willing to abide with me, because we certainly are bogging down, and we have many witnesses to hear.

So you're excused, Mr. Thompson. But you are not excused from the subpoena. Do you understand that?

Mr. THOMPSON. I understand that.

Senator WELKER. And with the agreement made with your counsel, you may go anyplace you want to here, and they will bring you back if we need you again. You are excused, sir.

Mr. MORRIS. Mr. Ogawa is the next witness.

Senator WELKER. Raise your right hand and be sworn.

You solemnly swear the testimony you give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. OGAWA. I do.

Senator WELKER. Do you understand the obligation of an oath?

Mr. OGAWA. I do.

Senator WELKER. What is that obligation?

(The witness consults with his counsel.)

Mr. OGAWA. To tell the truth and nothing but the truth.

Senator WELKER. Sir?

Mr. OGAWA. Mr. Chairman, before you proceed, I don't want to be televised, and I believe these lights bother me.

Senator WELKER. Now, that light is on us and not on you, and there is not any television camera appearing on you, and you well know it.

And that's just a little act on the part of you to try to embarrass this committee. As far as the chairman is concerned, I don't know anybody who would look at a television camera appearing on certain witnesses.

Now, we're the ones being televised, so please don't abuse us by saying that you're being unfairly treated when you know that you're not being televised.

Now proceed, counsel.

TESTIMONY OF TADASHI OGAWA

Mr. MORRIS. Will you give your name and address?

Senator WELKER. Wait a minute. I want the answer. Do you know the obligation of an oath?

Mr. OGAWA. I do.

Senator WELKER. All right. You conferred with your counsel on it. Now, will you tell me what that obligation is?

Mr. OGAWA. To tell the truth and nothing but the truth.

Senator WELKER. Under what pains or penalty?

Mr. OGAWA. I beg your pardon?

Senator WELKER. Under what pains or penalty, if you refuse to tell the truth.

Mr. OGAWA. Contempt of court.

Senator WELKER. I didn't hear you.

Mr. OGAWA. Contempt of court.

Senator WELKER. No. I think you'd better confer with your counsel again.

(The witness consults with his counsel.)

Senator WELKER. Your answer? It's perjury, isn't it? Your answer is "perjury"; I'll help you out.

Mr. OGAWA. That's right.

Senator WELKER. Fine. Thank you.

Now, proceed.

Mr. MORRIS. Will you give your name and address to the reporter, Mr. Ogawa?

Mr. OGAWA. Tadashi Ogawa.

Mr. MORRIS. Now, you are the director, are you not, of the Oahu division of the ILWU?

(The witness consults with his counsel.)

Mr. OGAWA. I decline to answer the question on the privilege granted to me by the first and fifth amendment of the Constitution of the United States.

Mr. MORRIS. Now, Mr. Chairman, in the interest of time I would like to mention that the September 1956 publication of the Department of Labor previously referred to so lists Tadashi Ogawa as director of the Oahu division of the ILWU, with a mailing address at 451 Atkinson Drive.

Senator WELKER. All right. Ask him what his address is.

Mr. MORRIS. That's the mailing address of the ILWU, Senator.

Senator WELKER. Ask him if he—Have you ever received any mail at that address?

Mr. MORRIS. 451 Atkinson Drive? Have you received mail at 451 Atkinson Drive?

(The witness consults with his counsel.)

Mr. OGAWA. Same answer.

Mr. MORRIS. Mr. Ogawa, are you now a Communist?

Mr. OGAWA. Same answer.

Mr. MORRIS. Have Communist Party meetings been held at your home?

Mr. OGAWA. Same answer.

Mr. MORRIS. Senators, I have a long series of questions prepared based on evidence, extensive evidence, that this man has been a Communist in Honolulu, has been a Communist for quite a period of time, but I think in view of the witness' answers it would be unavailing for us to continue.

Senator WELKER. I am going to disagree with you, counsel. I don't care whether he takes the fifth amendment. I want him to be upon his witness stand and fully interrogated. This committee came a long ways to find out what's going on here in the Territory of Hawaii. We're not trying to bust any unions, we're not trying to incriminate anyone unless he deserves it by his answers, and then that's someone else's duty, not ours. So I am asking you, and I think the committee will abide by this order, that you interrogate this gentleman as long as you desire.

Mr. MORRIS. Have Communist Party meetings been held at Jim Freeman's home, to your knowledge?

Mr. OGAWA. Same answer.

Mr. MORRIS. Have you attended meetings at Jim Freeman's home? Communist Party meetings?

Mr. OGAWA. Same answer.

Mr. MORRIS. Have you attended Communist Party meetings at the home of Jack Kimoto?

Mr. OGAWA. Same answer.

Mr. MORRIS. Have you attended Communist Party meetings in anticipation of the sugar strike?

Mr. OGAWA. Same answer.

Mr. MORRIS. Have you attended executive board meetings of the Community Party at Ewa Beach?

Mr. OGAWA. Same answer.

Mr. MORRIS. Have you attended education recruiting meetings at the home of Ralph Vossbrink?

Mr. OGAWA. Same answer.

Mr. MORRIS. Have you attended large executive board meetings of the Communist Party at the home of Jack Hall in Manoa?

Mr. OGAWA. Same answer.

Mr. MORRIS. I have no more questions of this witness, Senator.

Senator WELKER. Senator Johnston.

Senator JOHNSTON. No questions.

Senator WELKER. Senator Watkins.

Senator WATKINS. No questions.

Senator WELKER. Senator Butler. Senator Eastland.

Mr. MORRIS. Will you ask the witness to stand by, in the event we may need him again, Senator?

Senator WELKER. Yes. I am not satisfied with the interrogation of this witness. I think we should go further into it. So you are

ordered and directed to step aside, and you will be called back at a later date.

Mr. MORRIS. Mr. Fujisaki.

Senator WELKER. Raise your right hand and be sworn.

You solemnly swear the testimony you give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FUJISAKI. I do.

TESTIMONY OF SABURO FUJISAKI

Senator WELKER. Your name?

Mr. FUJISAKI. Saburo Fujisaki.

Senator WELKER. And your residence, please. Sit down.

Mr. FUJISAKI. My residence is 6158 Wakini Place, Honolulu.

Senator WELKER. Where?

Mr. FUJISAKI. Wakini Place.

Mr. MORRIS. Will you give your name and address to the reporter?

Senator WELKER. He has given that. I just asked him.

Mr. MORRIS. All right. Were you born on the island of Hawaii on May 10, 1920?

Mr. FUJISAKI. Yes; I was.

Mr. MORRIS. Are you now the insurance solicitor for the island of Oahu for the ILWU and the UPW?

Mr. FUJISAKI. I want to consult my attorney.

(The witness consults with his counsel.)

Mr. FUJISAKI. I decline to answer that question on the basis of the first and fifth amendments of the United States Constitution.

Senator WELKER. Same ruling as given by the Chair to the foregoing witnesses.

Mr. MORRIS. Are you a Communist, Mr. Fujisaki?

Mr. FUJISAKI. Before you go on, I would like to request that I wouldn't like to be televised.

Senator WELKER. Now, just a moment. You are not to address this committee until you're asked a question.

Now, proceed.

Mr. MORRIS. Are you presently a Communist, Mr. Fujisaki?

Mr. FUJISAKI. Same answer.

Mr. MORRIS. Have you been the director of the ILWU defense fund?

Mr. FUJISAKI. Same answer.

Mr. MORRIS. Have you been a courier for the Communist Party between San Francisco and Hawaii?

Mr. FUJISAKI. Same answer.

Mr. MORRIS. Have Communist Party meetings been held in your home?

Mr. FUJISAKI. Same answer.

Mr. MORRIS. Senator, I have no more questions of this witness.

Senator WELKER. What do you do to make a living?

(The witness consults with his counsel.)

Mr. FUJISAKI. Same answer.

Senator WELKER. You think it might tend to incriminate you if you told the committee that you mowed lawns or practiced law, or anything like that?

Mr. FUJISAKI. Same answer.

Senator WELKER. As a matter of fact, you received a little mimeographed sheet, did you not, telling you exactly what you were going to say and do when you appeared before this committee?

Mr. FUJISAKI. Same answer.

Senator WELKER. Do you know of that sheet's existence?

Mr. FUJISAKI. Same answer.

Senator WELKER. Would you say it didn't exist?

Mr. FUJISAKI. Same answer.

Senator WELKER. Now will you tell me that you have one in your possession?

Mr. FUJISAKI. Same answer.

Senator WELKER. If such a sheet existed, do you know who prepared it?

Mr. FUJISAKI. Same answer.

Senator WELKER. Did you talk to anybody prior to coming to this hearing room, with respect to your testimony?

Mr. FUJISAKI. Same answer.

Senator WELKER. Certainly, you discussed this matter with your able counsel.

Mr. FUJISAKI. Same answer.

Senator WELKER. You deny to this committee whether or not you discussed your testimony with your counsel? Is that correct?

Mr. FUJISAKI. Same answer. On the grounds of the first and fifth amendments.

Senator WELKER. On the grounds of the 1st, 5th, and 60th amendment, I am asking you whether or not did you confer with your counsel, which is the right of any person under the Constitution, and certainly the duty of you to talk with them. Did you confer with counsel prior to coming to this hearing?

Mr. FUJISAKI. I should not like to be a part of this circus, so I decline to answer the question.

Senator WELKER. Sir? I don't desire to argue with you. But answer that question. Will you?

Mr. FUJISAKI. I have already given my answer.

Senator WELKER. And did you say something about a circus?

Mr. FUJISAKI. The record shows.

Senator WELKER. Oh, the record shows that it is a circus? But I think there are thousands and thousands of people on this island will know who is putting on the circus. And it is certainly not this committee.

Now, since it is a circus in your opinion, will you tell me this? Are you now or have you ever been a member of the Communist Party?

Mr. FUJISAKI. I refuse to answer on the same ground.

Senator WELKER. Have you ever been off the mainland or over on the mainland and out of the islands?

Mr. FUJISAKI. Same answer.

Senator WELKER. Have you ever carried secret Communist documents and material from the mainland to the islands or from the islands to the mainland?

Mr. FUJISAKI. Same answer.

Senator WELKER. Did you ever carry oral instructions or information from the islands to the mainland or from the mainland to the islands?

Mr. FUJISAKI. Same answer.

Senator WELKER. Do you know Harvey Matusow?

Mr. FUJISAKI. No; I don't.

Senator WELKER. Have you ever read his book The False Witness? (The witness consults with his counsel.)

Mr. FUJISAKI. No; I did not.

Senator WELKER. Very well. Any further questions of the witness?

Mr. MORRIS. No, Senator; I have no questions.

Senator JOHNSON. Let's think about some other things for a minute. You like apples, don't you? Do you like to eat apples?

Mr. FUJISAKI. No; I don't.

Senator JOHNSON. Don't like to eat apples. Do you—you know what an apple is, don't you?

Mr. FUJISAKI. Yes.

Senator JOHNSON. What would you do if you had a barrel of apples and you knew that there were about 6 or 8 in the whole barrel rotten. What would you do with those rotten apples?

Mr. FUJISAKI. Throw them away.

Senator JOHNSTON. Throw them away. Don't you think the best thing the ILWU could probably do would be to throw some of the rotten apples out of the union and clear it up and then go ahead?

Mr. FUJISAKI. Same answer.

Senator JOHNSTON. Same answer.

Mr. MORRIS. May I be excused, Mr. Chairman, because Senator Eastland and I have a luncheon engagement which is quite important to the busineses of the committee.

Senator WELKER. Do you have some more witnesses we can get through with quickly?

Mr. MORRIS. No; there are no more witnesses set for this morning, Senator. We have witnesses for this afternoon, for the 3:30 session.

Senator WELKER. Very well. The witness is excused. You will stand by under the rule heretofore given, and the committee will start its hearings again at 3:30 this afternoon.

(Whereupon, at 12:05 p. m., the subcommittee recessed until 3:30 p. m.)

AFTERNOON SESSION

The subcommittee met, pursuant to recess, at 3:30 p. m., in the senate chamber, Iolani Palace, Senator John Marshall Butler presiding.

Present: Senator Eastland, chairman, Senators Watkins, Johnston, Welker, and Butler.

Also present: Robert Morris, chief counsel; Benjamin Mandel, research director.

Senator BUTLER. The subcommittee will come to order.

Mr. MORRIS. Senators, the first witness this afternoon is Mr. Ronald Jamieson.

Senator BUTLER. Mr. Jamieson.

Mr. MORRIS. Mr. Jamieson, will you come forward?

Senator BUTLER. Hold up your right hand. In the presence of Almighty God, do you solemnly promise and declare that the evidence you give this subcommittee will be the truth, the whole truth, and nothing but the truth?

Mr. JAMIESON. I do.

Senator BUTLER. The witness is sworn.

TESTIMONY OF ROLAND B. JAMIESON

Mr. MORRIS. Mr. Jamieson, will you give your full name and address to the reporter, please?

Mr. JAMIESON. My name is Ronald B. Jamieson, 1908 Ualakaa Street, Honolulu, T. H.

Mr. MORRIS. Will you be seated, Mr. Jamieson, please?

Mr. Jamieson, you are an attorney here in Honolulu, are you not?

Mr. JAMIESON. That is correct.

Mr. MORRIS. Were you born here on the island?

Mr. JAMIESON. I was born here, in Honolulu.

Mr. MORRIS. Will you tell us about your schooling?

Mr. JAMIESON. I went to Punahoa School, to Harvard College, Harvard Law School; I graduated from all three.

Mr. MORRIS. In what year did you obtain your law degree?

Mr. JAMIESON. I obtained the law degree in 1939.

Mr. MORRIS. You practice—you are admitted to the bar here in Oahu?

Mr. JAMIESON. I was admitted to the bar here in Honolulu in 1939.

Mr. MORRIS. And you have been practicing here in Honolulu since that time?

Mr. JAMIESON. Yes; I have been a practicing attorney in Honolulu since that time, except for trips to the mainland.

Mr. MORRIS. Now, you have been a circuit court judge here on the island?

Mr. JAMIESON. Yes; that is correct.

Mr. MORRIS. You have been also assistant attorney general?

Mr. JAMIESON. A deputy attorney general.

Mr. MORRIS. A deputy attorney general. Will you tell us when you served in that capacity?

Mr. JAMIESON. I was a deputy attorney general from 1944 to 1947.

Mr. MORRIS. And when did you act as a circuit court judge?

Mr. JAMIESON. I was a circuit court judge from 1952 to 1953.

Mr. MORRIS. Now, you were also conciliator in one of the pineapple strikes, were you not?

Mr. JAMIESON. Yes. I was the conciliator appointed by Governor Stainback and then continued by Governor Long when he became governor, in the 1951 Lanai Island pineapple strike from March 1 to July 20.

Mr. MORRIS. Did you while acting in that capacity encounter Jack Hall and the other officials of the ILWU?

Mr. JAMIESON. Yes, I did; I had a great many meetings and conversations with Jack Hall, and I had some conversations with other ILWU personnel.

Mr. MORRIS. Particularly Louis Forest Goldblatt, is it not?

Mr. JAMIESON. Yes. I had a conversation with Louis Goldblatt.

Mr. MORRIS. Now, before going on.

Senators, we had prepared a subpoena when the announcement was made that some of the top officials of the ILWU nationally were going to be in the islands, we had prepared a subpoena for Mr. Goldblatt and we were hoping that he would be here. However, inasmuch as he is not here, we haven't served that subpoena. Now, we didn't want to call him as a witness except with respect to the testimony of Mr. Jamieson here today.

Now, I wonder if you would, Mr. Jamieson, relate to us from the very beginning and as succinctly as possible, your experience with the gentleman we have been talking about.

Mr. JAMIESON. With Mr. Goldblatt?

Mr. MORRIS. No. Hall, Goldblatt, and the other top officials of the ILWU.

Mr. JAMIESON. Yes; I would be—

Mr. MORRIS. As succinctly as you can, but yet give us all the facts.

Mr. JAMIESON. I would be glad to do that.

Mr. MORRIS. I notice, Mr. Jamieson, you have notes there. Are they contemporaneous notes that you took at the time of these encounters?

Mr. JAMIESON. I have some contemporaneous notes of a conversation I had with Louis Goldblatt on the morning of July 5, 1951. I made these notes very soon after, either the afternoon of the same day or else the next day.

Mr. MORRIS. All right. And both of the episodes that you are going to relate to us took place within a relatively short period of time?

Mr. JAMIESON. The other—there was another episode with Jack Hall, which took place on May 26, 1951.

Mr. MORRIS. Will you tell us about both of those episodes?

Mr. JAMIESON. The Jack Hall episode. On May 26, 1951, the representatives of the ILWU and the Hawaiian Pineapple Co. signed a tentative agreement for settling of the Lanai Island pineapple strike. This agreement was subject to ratification by the union rank and file and also by the board of directors of the Hawaiian Pineapple Co.

In the morning on May 26, after that agreement had been signed, Jack Hall suggested going down to the Young Hotel bar and having a few drinks to celebrate the occasion. Somewhat reluctantly I went down. Mr. E. C. Rinehart, of the Employers Council, came with us. I might say that Mr. Hall's suggestion was directed to all of us. And also Mr. C. C. Cadagan, the vice president of Hawaiian Pineapple Co. He was the main Hawaiian Pineapple Co. man whom I had been dealing with. He came also. The four of us went down to the bar and had some drinks. Mr. Hall had quite a few drinks and became considerably under the influence of liquor. There had been a lot of conversation at the table. After Mr. Hall had had quite a number of drinks, he started talking very freely, as if to tell us things that would interest us, that we would not know otherwise.

One of the things he said was that he knew that three-quarters of the 39 reluctant witnesses before the 1950 committee from the House of Representatives of the United States Congress were members of the Communist Party. Now the language he used did not indicate that they were necessarily members at the time when they were called

before the committee, but he did indicate very clearly that he knew that three-quarters of the 39 witnesses had been members.

Now, I have one qualification to make to my testimony in reference to that statement. It may be that the fraction that Mr. Hall used was two-thirds. I think by a bare probability that it was probably three-quarters, but it might conceivably be two-thirds.

Mr. MORRIS. As he gave it to you in the context, that at least he knew it was that amount, he knew about that amount; he knew nothing about the other portion; is that it?

Mr. JAMIESON. Well, he was telling us about the portion represented by that fraction, and he knew that they were or had been members of the Communist Party. I might add that sometime soon after May 26, I gave a statement to the Federal Bureau of Investigation, when my mind was still fresh, of this statement by Hall and gave the Federal Bureau of Investigation the actual fraction which Hall used when he spoke.

Hall also made another statement, which was of interest. He said that Tom Tagawa——

Mr. MORRIS. Will you spell that, please?

Mr. JAMIESON. T-o-m T-a-g-a-w-a. Hall said that he himself knew that when Tom Tagawa testified before the 1950 committee of the House of Representatives, that Tagawa had perjured himself when he said that he had not been a member of the Communist Party.

I also reported that statement to the Federal Bureau of Investigation, when my mind—when it was fresh in my mind.

The conversation with Louis Goldblatt was in the presence of Jack Hall, the regional director of the ILWU, Tarahasa Oshiro, an ILWU official, and Takeo Furawiki, an ILWU official. I had met Oshiro and Furawiki a number of times, but they were a good deal less important than Hall, and I didn't have much to do with them. I had never met Goldblatt before.

Mr. MORRIS. This, too, was in the capacity—the statements were made to you in your capacity as conciliator between the company and the union?

Mr. JAMIESON. Yes; that is correct.

Senator BUTLER. And at the same time?

Mr. JAMIESON. No. These statements of Louis Goldblatt and Hall, which I am going to tell of in a moment, were made on July 5, 1951. In other words, over a month later. This was at ILWU headquarters in the morning, and I was introduced to Goldblatt, whom I had not met before, and the five of us talked together. I don't know exactly what—for sure—what caused Goldblatt to make the statement he did, but I am fairly sure I had made some remark in this sense, that it would be desirable for the striking employees and also for their company to settle this strike on some kind of a reasonable basis and start work again and save the crop, and that everybody would be better off in the end.

Apparently that was not to Mr. Goldblatt's taste, so Goldblatt said that the company had a right to throw away its crop if it wants to, that the company's mistake was not shooting five employees, to keep the employees in line, the way they do in Malaya.

And on my written statement I have "et cetera," indicating that there were several other remarks in that sense, made by Goldblatt.

Then Goldblatt went on: "That the strike was based on hatred against the company." In other words, hatred of the strikers for the company and a desire on the part of the strikers to reduce Lanai to volcanic ash.

Mr. MORRIS. To reduce—

Mr. JAMIESON. To reduce Lanai to volcanic ash. In other words, that was what the union and the strikers wanted to do to Lanai.

That the strike is a strike without an issue and is based on hatred for the company and a desire to destroy it. That Henry White ought to go out and pick the pineapples, and the union members would pay \$10 apiece to watch him.

Henry White was the president of the Hawaiian Pineapple Co.

Goldblatt and Hall both said "that if the company offered the tentative agreement," and that was the agreement that had been negotiated on May 26, 1951, and rejected a few days later by the union after a purported vote of the rank and file. Goldblatt and Hall said "that if the company offered the tentative agreement, plus union shop and the 12 cents," in other words, the 12 cents an hour pay increase—

The strike would still not be settled; that the union would invent other issues to keep the strike going. Goldblatt said that the strike was what the company was getting for abandoning industrywide bargaining; that under industrywide bargaining the union told the units they had to go along with the overall agreement; that with company or unit bargaining the union told each unit it could do what it liked.

Then either Goldblatt or Hall or both of them repeated that cliché, that the company is out to bust the union. I mean that is one of the theme songs of the ILWU, and I heard that a good many times. So I called them on it and told them that they knew that that statement was absolutely untrue, that the company in fact was in no position to break the union, even if it wanted to, and Goldblatt and Hall admitted that that was a fact, that the company was not in a position to break the union.

Goldblatt said that one-half of the strike committee, that was the strike committee having the immediate supervision of the Lanai strike, Goldblatt said that half of the strike committee had learned guerrilla warfare with the Huks.

Hall said that the strike was going to continue until Cadagan got fired. That means fired by Hawaiian Pineapple Co.

Goldblatt emphasized that the strike was going to go on to destroy the company on Lanai.

Hall and Goldblatt talked about there being nothing left on Lanai after the strike.

Mr. MORRIS. Now, what was that? I don't quite understand. What was that reference to the strikers being trained? May I ask you about that again?

Mr. JAMIESON. Goldblatt—in the course of this conversation—it is not in my notes, but it is very vivid in my memory—in the course of this conversation, Goldblatt turned to me and made a remark which he must have made because he saw the puzzled expression on my face. Goldblatt said, "You know the man with the gray beard, don't you?"

And I said, "You mean Karl Marx?"

And he said, "Yes."

And what he meant by the Huks was the Communist army in the Philippines, which was active during World War II and then after the war made war on the Philippine Government. And Goldblatt

said that half of the strike committee had learned guerrilla warfare with the Huks. And he suggested that if necessary the strikers would be able to, you might say, take care of themselves on Lanai in that way. In other words, if there was violence, they had some knowledge as to how to carry it on.

MR. MORRIS. Senators, that is the testimony that we have taken from Mr. Jamieson here in executive session.

Not only are you testifying under oath but you have before you, and this you swear, your contemporaneous notes made at the time. Is that right?

MR. JAMIESON. Yes. These notes were made either the day the conversation took place or the next day. I am not really quite finished with my notes, if you would like to have the rest.

SENATOR JOHNSTON. Yes; we would.

MR. JAMIESON. Goldblatt emphasized that the strike was going to go on to destroy the company on Lanai. Hall and Goldblatt talked about there being nothing left on Lanai after the strike. They talked about the crop being already lost. Goldblatt and Hall said that there would be other Lanais. Goldblatt said that in 30 or 40 days the employers would not be able to speak to their employees. What he meant was—what he made clear was that the hatred in another 30 or 40 days would be so great against the company that the company's supervisory employees would not be able to talk to the strikers.

I reported this conversation to Governor Long and also to the Federal Bureau of Investigation.

SENATOR BUTLER. Is there anything further?

MR. JAMIESON. I might go back a little bit. When I got into this strike I was quite conscious that the Korean war was going on; that the ILWU is, and was then, a Communist-dominated union; that the union's policy is synchronized with the foreign policy of the Soviet Union and is guided by directives which come one way or another from the Communist Party. I knew also that the union had settled with Hawaiian Pineapple Co., as far as the Wahiawa unit of the company was concerned, on the same basis on which the company was willing to settle with the Lanai unit. I also knew that it was desirable from the point of view of the Communists to have a sort of pilot light strike going in case a general war broke out in the Orient. I felt like they might like to pull a general strike in the Hawaiian Islands to do the best they could to make it difficult for the United States to fight the war, or they might like to pull a big strike and have the strike end unsuccessfully in order to destroy the union in case the Communist leaders of the union were interned. I was quite sure that, rather than have the union to fall into non-Communist hands, the union leaders—the Communist union leaders—would prefer that the union be destroyed as much as possible.

MR. MORRIS. Now, Mr. Jamieson, this all you tell us is something more than very militant trade-unionism?

MR. JAMIESON. Oh, yes. I think it is a lot more than militant trade unionism, and I say that, insofar as the ILWU has functioned as a trade union, its trade-union functions have been subsidiary to and incidental to its function as an instrumentality of the Communist Party.

By saying that I wouldn't want to minimize the fact that the union has got substantial gains for the employees on a trade-union basis,

but I don't think that those gains were obtained for the members. They were obtained as a tactical and as a strategic move for the Communist Party.

I don't want to drag out my reasons too long, but as a result of this sort of thinking, and after a good deal of thought, particularly because my role in this thing was as a conciliator, but, anyway, some time along the course of my work, I think probably in the latter part of April or the early part of May, I decided to get in touch with the United States attorney's office and the Federal Bureau of Investigation, and recommended to them that they make an investigation with a view of having a Smith Act prosecution against the people who were behind this strike. I explained to them my reasons. Of course, I didn't have the evidence for a Smith Act prosecution myself, but I felt absolutely sure that the Communist Party was running this strike, and it was running the strike not for trade-union purposes but for the purposes of the power of the party against the United States.

MR. MORRIS. Now, that last thing you said, Mr. Jamieson, is your personal opinion and conclusion, based on the evidence that you cited previously?

MR. JAMIESON. Yes; that's true. It is not, however, a rashly drawn conclusion. I mean I've thought it over.

MR. MORRIS. You have already given us the evidence which forms the basis of your conclusion?

MR. JAMIESON. Yes. That's right.

SENATOR BUTLER. Over what period of time did you deal with the ILWU?

MR. JAMIESON. I started dealing with the ILWU on March 1, as soon as I was appointed, and I think I had my last conversation with an ILWU official on July 20, when I had a telephone talk with Louis Goldblatt.

SENATOR BUTLER. And at the end of that period you were convinced that it was a completely Communist-dominated union and any labor or employee activity was merely coincidental?

MR. JAMIESON. Oh, yes; that's true. I was absolutely sure that the union was carried on for the greater power of the Communist Party.

MR. MORRIS. Senators, that is all.

SENATOR BUTLER. Senator Watkins, any questions?

SENATOR WATKINS. I have no questions.

SENATOR BUTLER. Senator Johnston.

SENATOR JOHNSTON. No questions.

SENATOR BUTLER. Senator Welker.

SENATOR WELKER. No questions.

SENATOR BUTLER. Thank you, Mr. Jamieson.

MR. MORRIS. Thank you, Mr. Jamieson, for coming forward and testifying.

(The witness was excused.)

MR. MORRIS. Henry Benjamin Epstein.

SENATOR BUTLER. Mr. Epstein, will you hold up your right hand? Do you in the presence of Almighty God solemnly promise and declare that such evidence as you give this subcommittee will be the truth, the whole truth, and nothing but the truth?

MR. EPSTEIN. I do.

SENATOR BUTLER. The witness is sworn.

TESTIMONY OF HENRY BENJAMIN EPSTEIN

Mr. SYMONDS. Mr. Chairman, may the record show that Mrs. Bouslog and Mr. Symonds are representing this witness?

Senator BUTLER. The record will so show.

Mr. EPSTEIN. May I make the same request with regard to television, please?

Senator BUTLER. Yes. There will be no televising of this witness.

Mr. MORRIS. What is your name?

Mr. EPSTEIN. Henry B. Epstein.

Mr. MORRIS. Where do you reside?

Mr. EPSTEIN. 5204 Ani Street.

Mr. MORRIS. Were you born in New York City in 1923?

Mr. EPSTEIN. I was.

Mr. MORRIS. Will you tell us what schools, elementary schools, you attended?

(The witness consults with his counsel.)

Mr. EPSTEIN. I attended Public School 46 in New York, Stetch Junior High School, and the High School of Music and Art.

Mr. MORRIS. Did you attend college in New York?

Mr. EPSTEIN. No; I did not.

Mr. MORRIS. Did you attend college at any time?

Mr. EPSTEIN. No; I did not.

Mr. MORRIS. Will you tell us what employment you had prior to coming to Hawaii?

(The witness consults with his counsel.)

Mr. EPSTEIN. I am going to refuse to answer that question on the grounds of the first and fifth amendments.

Senator BUTLER. The committee does not recognize any right that you would have under the first amendment, but we will accept the fifth amendment.

Mr. MORRIS. Did you come to Hawaii in 1947?

(The witness consults with his counsel.)

Mr. EPSTEIN. I did, sir.

Mr. MORRIS. Are you now the full-time director of United Public Workers?

Mr. EPSTEIN. I am going to refuse to answer that question on the same constitutional grounds.

Mr. MORRIS. That is, claim of privilege under the fifth amendment?

Mr. EPSTEIN. I am claiming under the first and fifth, sir.

Senator BUTLER. The same remarks, we will not recognize any right you may have under the first amendment. If you want to claim the privilege of the fifth amendment, on the basis that any testimony you may give in that regard would tend to incriminate you or make you testify against yourself, we will accept.

Mr. MORRIS. Mr. Chairman, in view of the witness' refusal to tell the committee whether or not he is the director of the United Public Workers, I ask if we may call upon Mr. Mandel to give us the best evidence that we have on that fact.

Senator BUTLER. It will be so ordered.

Mr. MANDEL. The Directory of Labor Organizations of the Territory of Hawaii, No. 30, revised September 1956, page 22, lists under United Public Workers, Territorial officers, Henry B. Epstein, director.

Senator WELKER. Mr. Chairman.

Senator BUTLER. Yes, Senator Welker.

Senator WELKER. May I ask, by reason of the testimony from Mr. Mandel, that the witness be ordered and directed to answer the question propounded to him?

Senator BUTLER. Well, the Chair will—as I understand the situation, the witness was asked a question as to whether or not he is now the full-time director of the United Public Workers, and he claimed the immunity under the fifth amendment.

Senator WELKER. That's right.

Senator BUTLER. It seems to the Chair that he has the right to do that if he so desires.

Senator WELKER. May I repeat my request, as a member of this committee, that he be ordered and directed to answer the question?

Senator BUTLER. I will so direct, if you like it. I direct you, Mr. Witness, to answer the question.

Mr. EPSTEIN. The answer will be the same, Mr. Chairman.

Senator BUTLER. And what is that?

Mr. EPSTEIN. That I decline to answer on the grounds of the first amendment and fifth amendment.

Mr. MORRIS. Prior to coming to Honolulu, were you a member of the Young Communist League?

(The witness consults with his counsel.)

Mr. EPSTEIN. I am going to refuse to answer that question on the same grounds.

Mr. MORRIS. Have you been a member of the joint Federal workers branch of the Communist Party in Chicago?

Mr. EPSTEIN. I am going to refuse to answer that question on the first and fifth amendments.

Mr. MORRIS. Was your announced purpose, in coming to Hawaii, to organize public employees into Local 646 of the United Public Workers of America?

Mr. EPSTEIN. I am going to refuse to answer that question on the same grounds.

Mr. MORRIS. When you came to the Hawaii Islands, did you become a member of the Communist Party here?

Mr. EPSTEIN. I am going to refuse to answer that question on the same grounds.

Mr. MORRIS. Have you tried—specifically, in 1947, did you make an effort to infiltrate the Hawaiian police force with Communists?

Mr. EPSTEIN. I am going to refuse to answer that question on the grounds of the first and fifth amendments.

Senator BUTLER. I notice you say, "I'm going to"; now, do you?

Mr. EPSTEIN. I do, sir.

Mr. MORRIS. Did you make an effort to organize the police department in 1949—in 1947?

Mr. EPSTEIN. Same answer.

Senator BUTLER. When did you come to Hawaii?

Mr. EPSTEIN. 1947, sir.

Mr. MORRIS. Was an unannounced purpose of yours to recruit police officers of Hawaii into the union shortly after your arrival?

(The witness consults with his counsel.)

Mr. EPSTEIN. I will refuse to answer that question for the same reason.

Mr. MORRIS. To your knowledge, was the United Public Workers expelled from the CIO in 1950?

(The witness confers with his counsel.)

Mr. EPSTEIN. My answer to that, Mr. Chairman, will be the same. I refuse to answer on the constitutional grounds previously given.

Mr. MORRIS. From 1947 to date, has your organization, that is, the United Public Workers, been directed by a paid full-time staff of identified Communists headed by yourself?

Mr. EPSTEIN. Again, I will refuse to answer that question on the ground I stated.

Mr. MORRIS. Have you been identified as a member of the Young Communist League?

Mr. EPSTEIN. The same answer, sir.

Mr. MORRIS. The Communist Party of Chicago?

Mr. EPSTEIN. Same answer.

Mr. MORRIS. Communist Party of Hawaii?

Mr. EPSTEIN. Same answer.

Mr. MORRIS. In 1947, did you send Henry Toyama, who was at that time a Communist Party member, to the island of Hawaii to be an organizer for the UPWA?

Mr. EPSTEIN. Same answer, sir.

Mr. MORRIS. Did you at that time instruct him to report to David E. Thompson, a leading member of the Communist Party of Hawaii, informing Toyama that he was being transferred to a Communist Party cell at Olao in Hawaii?

Mr. EPSTEIN. I am going to refuse to answer that on the same grounds.

Senator BUTLER. Do you feel that a truthful answer to any of these questions would tend to incriminate you and bring criminal action upon you?

Mr. EPSTEIN. I believe I understand my constitutional rights, Mr. Chairman. I am using them in good faith.

Senator WELKER. That isn't an answer to the question, Mr. Chairman. I insist that he answer it.

Senator BUTLER. Do you feel as though a truthful answer to the questions which have been propounded to you would tend to incriminate you if a criminal prosecution was brought against you?

Mr. EPSTEIN. I believe they might tend to do so, sir; yes.

Mr. MORRIS. In 1945, did the Communist Party in Hawaii, for security reasons, order transferred into a new secret cell all Communist Party members who were government employees or closely connected with the government or politics? Did the Communist Party of Hawaii, of which you were a member at that time, for security reasons, order transferred into a new secret cell all party members who were government employees or closely connected with governmental policies?

Mr. EPSTEIN. I refuse to answer that question on the grounds of the first and fifth amendments.

Mr. MORRIS. Among these persons was—included among these persons was Robert M. Kempa?

Mr. EPSTEIN. I refuse to answer that question on the same constitutional grounds.

Mr. MORRIS. Do you know that Robert M. Kempa, at that time, was employed by the board of water supply of the city and county of Honolulu?

Mr. EPSTEIN. I refuse to answer that question, on the same grounds, based on the Bill of Rights.

Mr. MORRIS. Was included among these persons Wilfred M. Oka because he was then secretary of the Oahu County committee of the Democratic Party?

Mr. EPSTEIN. Again I refuse to answer that question.

Mr. MORRIS. And was yourself included because you were soliciting government workers to join the UPWA?

Mr. EPSTEIN. Again I refuse to answer on the same constitutional grounds.

Mr. MORRIS. Have you been an exceptionally industrious and effective lobbyist from—for the Communist viewpoint?

(The witness consults with his counsel.)

Mr. EPSTEIN. I refuse to answer that question on the same ground.

Senator BUTLER. On the ground that it would incriminate you if you gave a truthful answer to it?

Mr. EPSTEIN. It might tend to incriminate me, sir.

Mr. MORRIS. Now, have you appeared before legislative bodies in your capacity of director of the United Public Workers?

Mr. EPSTEIN. I refuse to answer that question on the same ground.

Mr. MORRIS. Have you been a leading opponent of Communist investigations in Hawaii?

Mr. EPSTEIN. I refuse to answer that question on the same constitutional grounds.

Mr. MORRIS. Have you concentrated your efforts on recruiting so as to increase the strength of your organization, which continues under Communist domination and which now has about 2,000 members?

Mr. EPSTEIN. Once again, I refuse to answer that question on the same constitutional grounds.

Mr. MORRIS. Senator Butler, the staff has prepared a memorandum based on the information and evidence that we have received in the file. Now I have just gone through this memorandum point by point and given Mr. Epstein an opportunity to deny that.

Senator, there is one thing I didn't take up there, and that was the excerpt from the Territorial Commission on Subversive Activities, and the Territorial commission at that time, on March 31, 1954, held that—

the United Public Workers in Hawaii is controlled by the Communist Party through the instruments of Henry Epstein and other paid employees of the union—Stephen Murin, Max Roffman, and Jeanette Nakama Rohrbough.

Do you have knowledge that the United Public Workers in Hawaii is controlled by the Communist Party?

Mr. EPSTEIN. Once again, I refuse to answer that question on the same constitutional grounds.

Mr. MORRIS. Do you know that Stephen Murin is an instrument of the Communist Party in its control of the United Public Workers?

Mr. EPSTEIN. I am going to decline to answer that question on the same ground.

Mr. MORRIS. Same question for Max Roffman.

Mr. EPSTEIN. Same answer.

Mr. MORRIS. Same question for Jeannette Nakama Rohrbough.

Mr. EPSTEIN. Same answer.

Senator BUTLER. Counsel, you may make your offer.

Mr. MORRIS. I would like to, Senator, offer into the record this memorandum. Now, what we have done, the staff has compiled, not all of it, but a good part of its evidence and information into this compilation. We don't like to put this in the record unless we give the witness on the stand an opportunity to deny or affirm. We put it forth as information and evidence that we consider reliable and with the limitation surrounding it, particularly in view of the witness' refusal to testify I would like it to go into the record at this time.

Senator BUTLER. It will be so ordered.

(The document referred to is as follows:)

HENRY BENJAMIN EPSTEIN

This witness was born at New York City in 1923, came to Hawaii in 1947, and now resides at 5204 Ani Street, Honolulu. He is the full-time director of the United Public Workers, as to which the Territorial Commission on Subversive Activities has found (report dated March 31, 1954) :

"(1) The United Public Workers in Hawaii is controlled by the Communist Party through the instrument of Henry Epstein and other paid employees of the union—Stephen Murin, Max Roffman, and Jeanette Rohrbough.

"(2) The Communist Party has exploited the UPW and its membership primarily for Communist purposes.

"(3) In conflicts of interest between the Communist Party and the rank-and-file membership of the union, the Communist interest has prevailed.

"(4) The elected officials of the union and the rank and file either cannot or will not recognize that their union is Communist-dominated. So far as is known, they have taken no steps to rid the union of its Communist taint."

Epstein's announced purpose in coming to Hawaii was to organize public employees into local 646 of the United Public Workers of America. An unannounced purpose was to recruit police officers of Hawaii into that union.

Because of its Communist leadership, the UPWA was expelled from the CIO in 1950. Subsequent to the national disintegration of the UPWA, its Hawaii local resolved itself into the present United Public Workers. From 1947 to date, the organization has been directed by a paid full-time staff of identified Communists (who are not public workers), headed by Epstein.

This witness has been identified in the Young Communist League and the Communist Party, in Chicago, and in the Communist Party of Hawaii.

When, in 1947, he sent Henry Toyama (also then a Communist Party member) to the Island of Hawaii to be an organizer for the UPWA, Epstein instructed him to report to David E. Thompson, a leading Communist Party member on Hawaii, informing Toyama that he was being transferred to the Communist Party cell at Olaa, Hawaii.

In 1949, the Communist Party of Hawaii, for security reasons, ordered transferred into a new secret cell all party members who were government employees or closely connected with government or politics. These persons included, by way of example, Robert M. Kempa, because he was employed by the Board of Water Supply of the City and County of Honolulu; Wilfred M. Oka, because he was then secretary of the Oahu County Committee of the Democratic Party; and Henry B. Epstein, because he was soliciting government workers to join the UPWA.

Epstein has been an exceptionally industrious and effective lobbyist for the Communist viewpoint, appearing before legislative bodies in his capacity as

director of the United Public Workers. He has been a leading opponent of Communist investigations in Hawaii. He has continued to concentrate his efforts on recruiting so as to increase the strength of his organization, which continues under Communist domination and which now has about 2,000 members.

Senator BUTLER. Any further questions?

Mr. MORRIS. Yes; I have two more questions, Senator.

Have you been active in the Hawaii Civil Liberties Committee?

(The witness consults with his counsel.)

Mr. EPSTEIN. I refuse to answer that question on the basis of the first and fifth amendments.

Mr. MORRIS. Did John Reinecke attend a Communist Party meeting in your home on the Ala Wai? Have you ever lived on the Ala Wai?

(The witness consults with his counsel.)

Mr. EPSTEIN. I refuse to answer on the grounds previously stated.

Mr. MORRIS. You will not tell us even whether you lived on the Ala Wai? That's right? I am asking you questions.

Have you in the past lived on the Ala Wai?

Mr. EPSTEIN. I was going to answer "No, sir." I have lived at Kapiolani Boulevard, which might be interpreted as being close to the Ala Wai. That is why I hesitated. My offhand answer would be "No, I have never lived on the Ala Wai."

Mr. MORRIS. And this other apartment, at Kapiolani Boulevard, did John Reinecke ever come to that apartment in the company of other persons who were organizing schoolteachers?

Mr. EPSTEIN. I am going to refuse to answer that question on the grounds previously stated.

Mr. MORRIS. Were you, Wilfred Oka, his wife Beatrice, your wife Sylvia, Robert Winkam and his wife Cessie, and a man named Takeo, members of a semiclosed group of the Communist Party, some time prior to March 4, 1953?

Mr. EPSTEIN. I decline to answer that question, on the same grounds, based on the Bill of Rights.

Mr. MORRIS. Did a group meet—

Senator BUTLER. We will not take any cognizance of the Bill of Rights. If you want to take advantage of the fifth amendment to the Constitution of the United States, we will recognize that right.

Now, will you ask the question again, counsel?

Mr. MORRIS. We have evidence that Wilfred Oka and his wife, Beatrice—his wife Beatrice; Henry Epstein and his wife Sylvia; Robert Winkham and his wife Cessie; and a man named Takeo, were members of a semiclosed group of the Communist Party, and sometime prior to March 4, 1953; is our evidence accurate?

Mr. EPSTEIN. I refuse to answer that question on the grounds previously stated.

Senator BUTLER. What is the ground "previously stated"?

Mr. EPSTEIN. First amendment and fifth amendment.

Senator BUTLER. We will say once again that we feel you haven't any right to claim any privilege under the first amendment. We will recognize the privilege under the fifth amendment.

Mr. MORRIS. Now the committee is desirous of having, Mr. Epstein, information from you as to how much money the United Public Work-

ers has contributed to the defense of Communists here on the Islands. I wonder if you will give us that information?

(The witness consults with his counsel.)

Mr. EPSTEIN. I am going to refuse to answer that question on the same grounds previously stated.

Senator WATKINS. What qualifications are required of prospective members before they can become members of this union that you represent?

(The witness consults with his counsel.)

Mr. EPSTEIN. Senator, I am going to refuse to answer that question on the same grounds.

Senator WATKINS. Do you know what qualifications are required?

Mr. EPSTEIN. Same answer, Senator.

Senator WATKINS. I submit, Mr. Chairman, that whether he knows, he can answer that "Yes," or "No." He doesn't have to reveal anything. It couldn't possibly incriminate him to say "No."

Senator BUTLER. Senator, I was reading something with counsel. Will you please read back the question?

(The question was read by the reporter.)

Senator BUTLER. I order and direct that you answer that question.

(The witness consults with his counsel.)

Mr. EPSTEIN. May I ask to have the question repeated, please?

Senator BUTLER. Yes. Will you read it again, Mr. Reporter?

(The question was again read by the reporter.)

Mr. EPSTEIN. Same answer, Senator.

Senator BUTLER. In other words, you refuse to tell this committee what qualifications a man must possess to become a member of your own union?

Senator WATKINS. Mr. Chairman, that isn't what I asked him. I asked him if he knows. I didn't ask him to tell what they were. That was the second question. I want to know whether he knows.

Mr. EPSTEIN. The answer is the same, Senator.

Senator BUTLER. I order and direct that you answer that question: As to whether or not you know what qualifications a person must have to become a member of your own union.

Mr. EPSTEIN. I still decline to answer.

Senator WATKINS. Isn't it true that before a person can become a member of that union he must be in public service of the Federal Government or the Territory of Hawaii or some public entity, municipal corporation or otherwise?

Mr. EPSTEIN. I refuse to answer that question on the same ground, Mr. Chairman.

Senator BUTLER. Well, I order and direct the witness to answer that question.

Mr. EPSTEIN. I refuse again, sir.

Senator WATKINS. How many members does the union referred to have in Hawaii?

Mr. EPSTEIN. Again, I refuse to answer on the same constitutional grounds.

Senator BUTLER. I order and direct that you answer that question.

Mr. EPSTEIN. Again, I decline, sir.

Senator WATKINS. Are any of its members employed by the United States Government in any capacity?

Mr. EPSTEIN. I decline again to answer that question, on the same grounds as previously given.

Senator WATKINS. You know I am referring to the members of the union that we are talking about in this examination. You understand that, don't you?

Mr. EPSTEIN. Yes, sir.

Senator BUTLER. And I order and direct that you answer that question.

Mr. EPSTEIN. And I refuse again to answer the question, on the grounds of the first and fifth amendment.

Senator WATKINS. Are any of the members of that union employed by the Territory of Hawaii?

(The witness consults with his counsel.)

Mr. EPSTEIN. I refuse to answer that question, on the same constitutional grounds.

Senator WATKINS. Or by any municipality known as Honolulu?

Mr. EPSTEIN. Same answer.

Senator WATKINS. Or any other municipality in the Territory?

Mr. EPSTEIN. Same answer, Senator.

Mr. MORRIS. Senator Watkins, in connection with those questions, I have here from the Public Record of June 1947, a publication:

UPW launches Hawaii organizing drive following Flaxer's visit to the Territory. Hawaii—initiating a drive to enroll more than 5,000 county and Territorial employees in Hawaii into the UPW, International President Abram Flaxer visited the Territory in the latter part of May and worked out an organizational program with local UPW leaders and members. At the present time there are over 600 UPW members in Hawaii, comprising in the main social workers, teachers, and county road workers.

Now, was that an accurate statement, appearing in the public record of June 1947?

Mr. EPSTEIN. I refuse to answer that question, on the same constitutional grounds.

Mr. MORRIS. Are you the Mr. Henry Epstein whose picture appears in this picture that accompanies this story?

Senator WATKINS. I ask that the witness come forward and take a look at it, before he answers.

Senator JOHNSTON. Sure.

Senator WATKINS. Or before he claims immunity.

Senator JOHNSTON. Let him see it, look at it and see if he can't recognize himself.

(The witness consults with his counsel.)

Senator JOHNSTON. You said "Yes"?

Senator BUTLER. You are the person whose picture is—

Mr. EPSTEIN. Same answer, Senator.

Mr. MORRIS. Senator, there are other questions here, other information I have—

Senator WATKINS. I want to know, do you know the Mr. Flaxer referred to in this story? Abram Flaxer?

Senator BUTLER. Abram Flaxer.

Mr. EPSTEIN. Same answer, Mr. Chairman.

Senator BUTLER. You don't know him?

Mr. EPSTEIN. I am going to—I am refusing to answer, on the constitutional ground already stated.

Senator WATKINS. You honestly believe that if you answered that question—

Mr. EPSTEIN. Yes.

Senator WATKINS. That you knew him, that that might possibly incriminate you?

Mr. EPSTEIN. I believe I am using the—

Senator WATKINS. Well, I ask you—

Mr. EPSTEIN. Constitutional protection in good faith.

Senator WATKINS. I want to get the basis of it. You have got to give the basis of it, not just claim the fifth amendment, if we insist upon finding whether or not you honestly believe that to give a truthful answer to the question it might possibly tend to incriminate you.

Mr. EPSTEIN. It might tend to; yes, sir, Senator.

Senator WATKINS. That's what I want to know.

Mr. MORRIS. Are you sure, Mr. Epstein, you will not give us the information that we seek with respect to our inquiry into what money the United Public Workers has spent in order to aid the defense of Communists here on the islands? I ask you again if you will give us that information?

Mr. EPSTEIN. Same answer, Mr. Counsel.

Mr. MORRIS. Mr. Chairman, you know we took up at the executive session here today the question, as you know, Senator, the subcommittee is unanimously agreed that if Mr. Epstein didn't answer that question that he would be subject to a subpoena duces tecum.

Senator BUTLER. Is the United States marshal here? Will you please serve this subpoena on the witness?

Mr. MORRIS. Mr. Epstein, will you come forward and take this subpoena, please?

(The witness proceeded to the bench as requested.)

Senator BUTLER. Let it be served by the marshal. The marshal—

Mr. MORRIS. It is not made out that way, Senator.

Senator BUTLER. Oh, I see.

Mr. MORRIS. That is why I gave it to him personally.

Senator EASTLAND has directed that you receive that subpoena. There's a marshal present. You will go to the headquarters of your union and forthwith bring back the books that are sought in that subpoena.

May he be so directed?

Senator BUTLER. I so direct, Mr. Epstein, that you go, in the company of the United States marshal, to the headquarters of your union and bring the books and papers required by that subpoena.

Senator WELKER. Or any other place. Not only the headquarters.

Senator BUTLER. Wherever the books are, and bring those documents to this hearing.

Mr. MORRIS. Forthwith.

Senator BUTLER. Forthwith.

Mr. EPSTEIN. May I consult my attorney, sir?

Senator BUTLER. Certainly.

(The witness consults with his counsel.)

Senator WELKER. I want to interrogate you a little while before you take your trip.

Senator WATKINS. Mr. Chairman, while there's a lull in the examination of the witness, may I ask that the story from the Public Record of June 1947, Public Record published in Honolulu, T. H., entitled, the headline "UPW Launches Hawaii Organizing Drive Following Flaxer's Visit to the Territory" may be made a part of the record.

Senator BUTLER. It will be so ordered.

(The clipping referred to was marked "Exhibit No. 390" and reads as follows:)

EXHIBIT No. 390

[Public Record, June 1947]

UPW LAUNCHES HAWAII ORGANIZING DRIVE FOLLOWING FLAXER VISIT TO TERRITORY

HAWAII.—Initiating a drive to enroll more than 5,000 county and Territorial employees of Hawaii into the UPW, International President Abram Flaxer visited the Territory in the latter part of May and worked out an organizational program with local UPW leaders and members.

At the present time there are over 600 UPW members in Hawaii comprising in the main social workers, teachers, and county road workers. The renewed drive will concentrate on enrolling county road workers in the various counties hospital employees and teachers in the Territory.

President Flaxer was accompanied by Henry Epstein, former business agent of local 13 in Chicago, who has now been assigned as international representative in charge of the drive in Hawaii. Epstein recently concluded a 3½-year hitch in the Army, serving mainly in the South Pacific theater.



In charge of drive: Wilfred Oka and Henry Epstein

Working with Epstein will be Brother Wilfred M. Oka who has been serving as international representative for the union for some time. Brother Oka is a graduate of the University of Honolulu and holds a masters degree from Columbia University.

When President Flaxer arrived in Hawaii local Washington stooge newspapermen announced that the union is now planning an organization drive in Pearl Harbor to match its recent "invasion of the Panama Canal Zone." As a matter of actual fact President Flaxer never went near Pearl Harbor and the union has no plans for organizing any Government employees in that area. The present drive will be confined exclusively to organizing Territorial and county employees outside of Pearl Harbor.



From left to right: Mr. and Mrs. Henry Epstein, international representative; Abram Flaxer, international president; Mr. and Mrs. Bert Nakano, ILWU, local 136, secretary-treasurer; James Kealoha, former supervisor, county of Hawaii; John Haili, UPW, local 646, vice president; Joseph Pacheco, former supervisor, county of Hawaii; Richard R. Yokoyama, UPW, local 646, secretary; Antone C. Duarte, UPW, local 646, president; Mr. and Mrs. Harry Kamohu, president and business agent, ILWU, local 136; August Asau, vice president, ILWU, local 136

Mr. MORRIS. Will Mr. Newton Miyagi come forward?

Senator BUTLER. Mr. Miyagi, will you come forward?

The Internal Security Subcommittee, the members of the committee here present, in executive session, have directed me, the acting chairman of this meeting, to serve on you as secretary-treasurer of local 142, ILWU, and the secretary of the ILWU memorial fund, these two subpoenas.

Mr. MORRIS. You will notice, Mr. Miyagi, they are both forthwith subpoenas. And I am asking if the marshall will accompany Mr. Miyagi in expediting his returning the records forthwith.

Mr. MIYAGI. May I consult my attorney?

Senator BUTLER. You certainly may.

Senator JOHNSTON. I think he should have a right to consult the attorneys, but I think the attorneys may not be mindful of the fact that we have had similar cases of this before, and where they refuse, the law takes charge of the matter.

Senator WATKINS. May I call attention of the Senator from South Carolina to the fact that Mr. Abram Flaxer was convicted of contempt of Congress for refusing to bring the records. And that was upheld by the Supreme Court. I handled the hearings in which that happened.

Senator JOHNSTON. That's the reason I called—

Mr. EPSTEIN. Mr. Chairman, may I ask a question?

Senator WELKER. Use that microphone back there.

Mr. EPSTEIN. May I ask a question?

Senator BUTLER. Yes.

Mr. EPSTEIN. I would like to ask by what authority it is necessary for the United States marshal to come with us.

Mr. MORRIS. You have been told enough about it; that's all the authority that's needed.

Senator BUTLER. Just proceed forthwith to bring the books and records of your organization before this committee.

Mr. MORRIS. And a United States marshal will assist you and expedite the return of the records.

(The witness again consults with his counsel.)

Mr. EPSTEIN. Mr. Chairman, I'm going to object——

Senator BUTLER. You are not going to do anything but get those books and records and bring them before this committee. That's the first thing you're going to do.

You may stand aside as a witness and proceed.

Senator WATKINS. May I suggest, Mr. Chairman, I think I know what he has in his mind. The United States marshal is not taking him into custody.

Senator BUTLER. Not a bit; not a bit.

Senator WATKINS. You are not ordering him to do that.

Senator BUTLER. He is taking you, to help you in the carrying of your records and bringing them here, if you would like him to.

(The witnesses conferred with their counsel.)

Senator BUTLER. The committee has other business, and you can stand aside until you have filled the terms of that subpoena.

Mr. EPSTEIN. Mr. Chairman.

Senator WELKER. Just a moment. Mr. Chairman, I asked to interrogate this witness, but due to the fact that this is a subpoena duces tecum I suggest that the witness stop talking and get on your little trip, accompanied by the marshal, and bring forthwith the documents required by the subpoena duces tecum. And then I would desire to interrogate you a bit after you return.

Mr. SYMONDS. Senator, this man wishes to consult with his attorney.

Senator WELKER. What?

Mr. SYMONDS. This man wishes to consult with his attorney. He can't do it in 5 minutes. This is a very serious matter.

Senator WELKER. You bet it is a very serious matter. And I never heard of people consulting about a subpoena. That's an order, a subpoena, and it will be followed.

Mr. SYMONDS. He has a right to speak——

Senator WELKER. You've been talking there for 15 minutes.

Mr. SYMONDS. Not about this subpoena.

Senator WELKER. Very well, then. I suggest, Mr. Chairman, that the words and order of the subpoena be carried out.

Senator BUTLER. Hasn't the chairman directed that that be done?

Senator WELKER. It has been directed, and now we're getting into a little snafu with counsel.

Mr. EPSTEIN. Mr. Chairman.

Senator WELKER. When the books and records come here, then you can consult with your client. I think that's fair.

Mr. SYMONDS. Mr. Chairman.

Senator WATKINS. I desire to be heard in this matter.

Senator BUTLER. Yes. Senator Watkins.

Senator WATKINS. I do not agree with the Senator from Idaho. This witness and the other witness should have reasonable time to procure—to respond to that subpoena, and they should have a reasonable opportunity to consult with counsel as to whether the subpoenas have been properly issued or whether the inquiry, the thing requested, is within the right of the committee to require. I for one want to see them have that time. And I want to make it clear, again, that the offer or the suggestion that they go with the marshal is not intended to mean for a moment that they are under the supervision of the marshal—that they are under arrest or in his custody. But merely a matter of convenience. But I do think under the state of this record, in view of the refusals to answer, that the witnesses, both of them—the other gentleman is required to get documents and bring them back here—should respond forthwith, and that is, what is reasonable under the circumstances may be a lot less time than would ordinarily be granted, because we are now in session and the inquiry has been made of many matters which the witness refuses to answer, and it is the only recourse left open to the committee, and it is a proper subject for us to investigate, as the Supreme Court has already held, in a matter that I conducted myself for this committee.

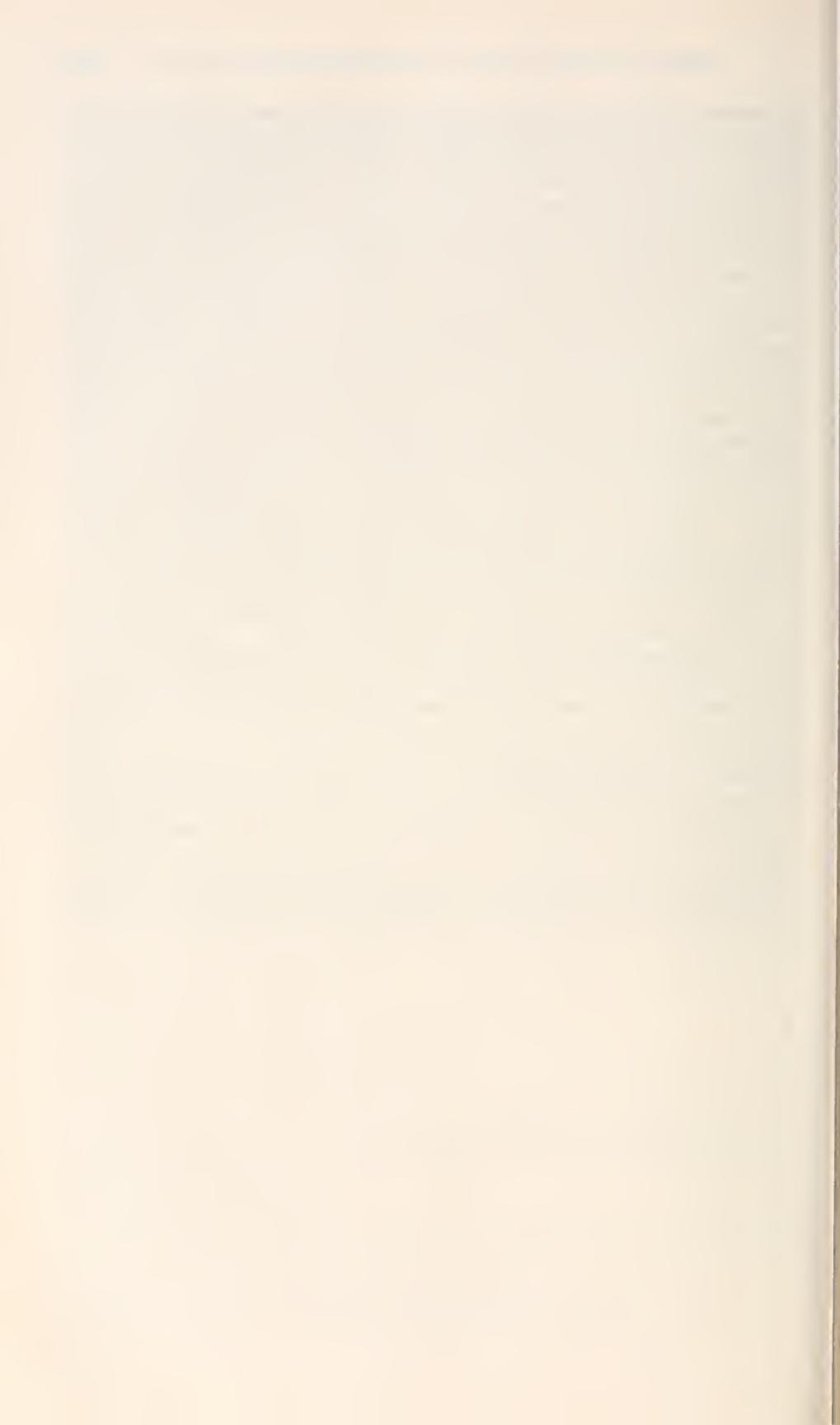
Senator BUTLER. It is the view of the chairman that haste should be made. If the witness and his counsel would leave, we could go on with the hearing.

Mr. SYMONDS. We represent the next witness, Mr. Chairman, also, and I suggest that tomorrow morning, under the Powell decision of the United States, would be the least—the least time that we should have—

Senator WELKER. Now, just a moment. Just a moment now. Mr. Chairman, I suggest if counsel—if you want to make a speech, you come up here and talk to the chairman.

(Counsel and witnesses then approached the bench and a discussion was had off the record.)

Senator BUTLER. I think tomorrow morning is a reasonable request. The subcommittee will stand in recess until 9:30 tomorrow morning. (Whereupon, at 4:45 p. m., the subcommittee recessed.)



SCOPE OF SOVIET ACTIVITY IN THE UNITED STATES

TUESDAY, DECEMBER 4, 1956

UNITED STATES SENATE,

SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION

OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL

SECURITY LAWS OF THE COMMITTEE ON THE JUDICIARY,

Honolulu, T. H.

The subcommittee met, pursuant to adjournment, at 9:40 a. m., in the senate chamber, Iolani Palace, Senator James O. Eastland (chairman) presiding.

Present: Senators Eastland, Watkins, Johnston, Welker, and Butler.

Also present: Robert Morris, chief counsel; Benjamin Mandel, research director.

Senator EASTLAND. The committee will come to order.

Mr. MORRIS. Senator, the first witness that we planned to use this morning is a man who was subpoenaed some time ago, and when he came in he, as you know, Senator, made full disclosure, rather than invoke the privilege under the fifth amendment, about his past membership in the Communist Party. He asked us that he not appear in public record, and consistent with our policy, we have made an arrangement whereby we have the information and the evidence as the result of his own experience. He told us, as you know, Senator, as one of the things, that while he was a Communist here on the islands that he had experience with, as he put it, "a shade more than a hundred" Communist Party members.

Now, consistent with our policy in the past, we have excused him from further testimony. We will not only protect his anonymity, inasmuch as he has been cooperating with the committee, but in addition we have asked him if he would not cooperate with the Territorial commission here.

We feel, Senator, that it is not our function to go into every single Communist case here on the islands. We are here only to get a broad picture, and it is the work of the Territorial commission to do anything more they may want to do. So, consistent with our function and their function, and agreeable to the witness who shall remain anonymous, he will be cooperating with the commission. The fact we should put in our record is this statement: That during his period of membership in the Communist Party, which comes more or less—I don't want to give the date of the separation because I might be identifying him before some people—that he did deal with "a shade more than a hundred people." And we plan to have a further session with him before we leave the island.

If that is satisfactory to the Senators on the committee, I would like then to go on with the next witness.

Senator EASTLAND. What is your pleasure, gentlemen?

Senator WATKINS. I approve the recommendation made by counsel.

Senator JOHNSTON. I think that's the proper way to handle the matter under the circumstances.

Senator WELKER. Agreed.

Senator EASTLAND. So ordered. Who is your next witness?

Mr. MORRIS. Mr. Roffman. Max Roffman.

Senator EASTLAND. You have been sworn, Mr. Roffman?

Senator WELKER. No.

Senator EASTLAND. Do you solemnly swear that the testimony you are about to give the Senate Internal Security Subcommittee of the parent Judiciary Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF MAX ROFFMAN

Mr. ROFFMAN. I do.

May I sit down?

Senator EASTLAND. Yes.

Mr. ROFFMAN. And I make the same request as the others with regard to television.

Senator EASTLAND. Gentlemen, that order is going to be enforced now.

Mr. MORRIS. Mr. Roffman, give your name and address to the reporter.

Mr. ROFFMAN. Max Roffman, 3049-A Kalihi Street.

Mr. MORRIS. Now, were you born in New York City on April 11, 1910?

Mr. ROFFMAN. Yes, sir.

Senator JOHNSTON. May I suggest that the witness pull the "mike" a little closer to him?

Mr. MORRIS. Now, will you tell us of your early education in New York City?

Mr. ROFFMAN. Grammar school and high school.

Mr. MORRIS. Did you attend college?

Mr. ROFFMAN. I took a noncredit course in journalism at night.

Mr. MORRIS. Where did you take that from?

Mr. ROFFMAN. Brooklyn College.

Mr. MORRIS. And tell us generally what work you did in New York.
(The witness consults with his counsel.)

Mr. ROFFMAN. Various miscellaneous jobs, office boy, shipping clerk, various others; these were the depression years and long periods of unemployment.

Mr. MORRIS. When did you come to Honolulu?

Mr. ROFFMAN. 1953.

Mr. MORRIS. Now, what was your last employment before you came to Honolulu?

(The witness consults with his counsel.)

Mr. ROFFMAN. I refuse to answer that question, on the basis of the Bill of Rights which protects me, specifically on the first amendment and also the fifth amendment.

Mr. MORRIS. Mr. Chairman, may I have a ruling? He claims his privilege under the first and under the fifth amendments.

Senator EASTLAND. Of course, he has no right under the first amendment. That's overruled. It is recognized under the fifth. And I wish you would ask him specifically what he did, and let's get his answer in the record.

Mr. MORRIS. I asked the witness what his last job was before he came to Honolulu, Senator, and he has refused to answer. And you have ruled on it.

Since you have arrived here, have you been an organizer of the United Public Workers?

(The witness consults with his counsel.)

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Well, our evidence indicates that you are and have been an organizer of the United Public Workers; our further information indicates that during the year 1955 you received from the UPW a salary of \$4,387.50. Are those accurate facts, Mr. Roffman?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. It is a fact, is it not, that you came to Hawaii from Detroit?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. And is it a fact that you are employed—you were employed as an organizer for the UPW of the Detroit local?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Was not your transfer from Detroit to Honolulu the result of a suggestion by Mr. Epstein?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. You have been a close friend of Abram Flaxer, F-l-a-x-e-r, have you not, Mr. Roffman?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Do you know a man named Ewart Gwennier?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Now, you have worked closely with Jack Hall since you have come to Honolulu, have you not, Mr. Roffman?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. You have worked closely with Mr. Epstein—Henry B. Epstein?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Have you known and dealt with a man who has described himself as the chairman of the Communist Party of Honolulu, namely, Charles Fujimoto?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Mr. Roffman, were you at a meeting at Mr. Epstein's home last Saturday night, a week ago Saturday?

Mr. ROFFMAN. Same answer.

Senator EASTLAND. Was that a Communist meeting?

Mr. ROFFMAN. Same answer.

Senator EASTLAND. In other words, you take the fifth amendment on whether or not that was a Communist meeting, is that correct?

Mr. ROFFMAN. On the grounds given before.

Senator EASTLAND. It is your testimony that if you would truthfully answer that question, it would tend to incriminate you? Is that correct?

Mr. ROFFMAN. I believe there is that danger.

Senator EASTLAND. Yes. Well, it must have been a Communist meeting then.

Proceed.

Mr. MORRIS. Mr. Roffman, are you now a Communist?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Have you attended Communist Party meetings in Hawaii since your arrival here in 1953?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Have you been associated with the Hawaii Civil Rights Congress?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Prior to coming to Honolulu, you were active in the Communist Party in Baltimore, were you not, Mr. Roffman?

Mr. ROFFMAN. Same answer.

Senator EASTLAND. What was that question?

Mr. MORRIS. Will you read it, Mr. Cowart, please?

(The question was read by the reporter.)

Mr. MORRIS. Senator, I have—and may we take this up in executive session—a rather extensive memorandum which sets forth considerable evidence on this man. Now, I don't know, Senator, for security purposes, whether I can put this into the public record at this time. I will show it to the Senators in executive session and they may make a decision at that time whether or not—

Senator EASTLAND. Could we step out right now and hold a little executive session?

Mr. MORRIS. All right, Senator.

Senator EASTLAND. Does that suit you?

Well, go ahead. Proceed, then. O. K. Proceed.

Mr. MORRIS. In 1942, were you one of the original members of "The Yanks Are Not Coming Committee?"

(The witness consults with his counsel.)

Mr. ROFFMAN. Same answer, on the grounds stated before.

Mr. MORRIS. Now, could you tell this committee how the United Public Workers operates?

Mr. ROFFMAN. Same answer, as heretofore given.

Mr. MORRIS. Will you tell us—Will you give us the names of all the organizers of the United Public Workers here in Hawaii?

Mr. ROFFMAN. Same answer.

Mr. MORRIS. Is it your testimony, Mr. Roffman, that you will not tell us the names of the organizers of the United Public Workers?

Mr. ROFFMAN. Same answer as before and on the grounds stated.

Mr. MORRIS. And if I say to you, Mr. Roffman, that we have the desire to know, because we have evidence that Communists have been operating in the United Public Workers, we would like to know the names of all of the organizers that you know. I ask you particularly to answer that question.

Mr. ROFFMAN. And I give the same answer.

Mr. MORRIS. Senator, I would like the record to show that that information is particularly sought by this committee, the witness is competent to give the testimony.

And I ask again, Mr. Roffman, if you will give us that?

Mr. ROFFMAN. And I give the same answer.

Mr. MORRIS. And, Senator, as you know, these hearings are being conducted so that we might know the extent of Soviet activity here

in the Hawaiian Islands, in connection with our overall inquiry into the scope of Communist activity and the scope of the Soviet activities in the United States, and the question is sought for that particular purpose.

Senator, I have no more questions of this particular witness.

Senator EASTLAND. Senator Watkins.

Senator WATKINS. I have no questions.

Senator EASTLAND. Senator Johnston.

Senator JOHNSON. No questions.

Senator EASTLAND. Senator Welker.

Senator WELKER. Mr. Witness, what do you do for a living?
(The witness consults with his counsel.)

Mr. ROFFMAN. I decline to answer that on the basis of the Bill of Rights and for the reasons stated heretofore.

Senator WELKER. You wouldn't care to tell us whether or not you did something, worked for a living, that wouldn't tend to incriminate you?

Mr. ROFFMAN. I think there is a danger before this committee.

Senator WELKER. There would be a danger. If you were raking leaves out here at the Royal Hawaiian Hotel, you think that might tend to incriminate you?

(The witness consults with his counsel.)

Mr. ROFFMAN. I don't know what relation that has to do with internal security. However, I decline to answer on the grounds given before.

Senator WELKER. I didn't hear your first remark there. Something about internal security.

Mr. ROFFMAN. I said I didn't know what raking leaves had to do with internal security.

Senator WELKER. It might have a great deal to do with it if people like you were out raking them. Now, you had your education in Brooklyn College in New York. Is that correct? Your higher education?

Mr. ROFFMAN. Right.

Senator WELKER. I believe you stated "noncredit," or something of that sort?

Mr. ROFFMAN. Yes.

Senator WELKER. Did you attend any cell meetings of the Communist Party while you were in New York?

Mr. ROFFMAN. I decline to answer on the grounds stated before.

Senator WELKER. You're relatively a young man yet. What is your age?

Mr. ROFFMAN. Forty-six.

Senator WELKER. Forty-six. Have you ever attended any labor schools of the Communist Party on the mainland?

Mr. ROFFMAN. I refuse to answer on the grounds given before.

Senator WELKER. And would you be willing, Mr. Witness, to tell the people that you try to organize into the United Public Workers that you have told this committee of the United States Senate that you have refused to answer these very simple questions upon the ground that they might tend to incriminate you?

Mr. ROFFMAN. I refuse to answer your question on the grounds stated before.

Senator WELKER. Would you be fair enough to go on the air and tell your people, United Public Workers, the questions and answers propounded to you and let them be the judge as to whether or not you had been a member of the Communist Party or are now a member of the Communist Party?

Mr. ROFFMAN. I understand I'm on the air now.

Senator WELKER. You understand you're on the air now? How do you mean that?

Mr. ROFFMAN. I understand that these sessions are broadcast.

Senator EASTLAND. Let's have order, please.

Senator WELKER. I think I have no further questions.

Senator EASTLAND. Wait a minute. Senator Butler?

You may stand aside. You are not excused; you are still under subpoena.

Mr. MORRIS. Senator, Senator Watkins had a question.

Senator WATKINS. I wanted to ask the witness a question.

I understand you refuse to answer the question as to what your occupation is, or what you are doing; what is your work. Is that true?

Mr. ROFFMAN. I did refuse on the grounds stated.

Senator WATKINS. You did that on the ground it might incriminate you if you gave an honest and truthful answer to that question?

Mr. ROFFMAN. I think answering the question before this committee might create that danger.

Senator WATKINS. Well, it would before any committee, wouldn't it?

(The witness consults with his counsel.)

Mr. ROFFMAN. I so feel.

Senator WATKINS. And even before a court. That would be your position even in court, if you were asked that same question?

(The witness consults with his counsel.)

Mr. ROFFMAN. That question was purely speculation on what I would do.

Senator WATKINS. Even if it is, I have a right to ask it and I have a right to get an answer, unless you want to claim the protection of the fifth amendment again.

Mr. ROFFMAN. Well, I do claim the protection of the fifth amendment.

Senator WATKINS. All right. You have that right. That's all.

Senator EASTLAND. Call your next witness.

Mr. MORRIS. Mr. Murin.

Senator EASTLAND. Do you solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF STEPHEN THOMAS MURIN

Mr. MURIN. I do. I would like to make the same request about television.

I would like to ask if you gentlemen would introduce yourselves. I find it difficult to think of you as individuals if I don't know you by your names.

Mr. MORRIS. Will you give your name and address to the reporter, Mr. Murin?

Mr. MURIN. My name is Stephen Thomas Murin.

Mr. MORRIS. That's spelled M-u-r-i-n.

Mr. MURIN. Yes. M-u-r-i-n.

Mr. MORRIS. Where do you reside, Mr. Murin?

Mr. MURIN. I live at 2357-C Palolo Avenue, Honolulu. Pardon me. I also live part of the time at 1109 Kilauea Avenue in Hilo.

Mr. MORRIS. Where were you born, Mr. Murin?

Mr. MURIN. I was born in Mammoth in Pennsylvania.

Mr. MORRIS. I am sorry; I didn't hear you.

Mr. MURIN. Mammoth, Pa.

Mr. MORRIS. How long did you stay at Mammoth, Pa.?

Mr. MURIN. About 18 months.

Mr. MORRIS. And where did you receive your elementary school education?

Mr. MURIN. In McKees Rocks, Pa., which was the next town that my family moved to.

Mr. MORRIS. Where did you attend high school?

Mr. MURIN. In McKees Rocks, Pa.

Mr. MORRIS. And did you attend college?

Mr. MURIN. I shall refuse to answer that question on the grounds of the immunity granted me in the Bill of Rights, particularly the first and the fifth amendments.

Mr. MORRIS. In other words, you feel that you can answer about your high school education but you cannot tell us about your college education?

Mr. MURIN. I feel at this particular time and before this particular committee, I would prefer not to answer the question put to me.

Senator JOHNSON. Do you mean to say that the college you attended, telling the college, might incriminate you? In other words, you don't mean to lead the people to believe here that probably that college is mixed up in communism, do you?

Mr. MURIN. I believe I have stated my reason for refusing to answer the question. I still state the same reason for refusing.

Senator WATKINS. I would like to ask you the same question I asked the last witness. Do you honestly believe that if you tell us the truth about the colleges you may have attended, that would redound to incrimination? For instance, the evidence we have against you might be used in a prosecution in a criminal case.

Mr. MURIN. As I stated, because of the particular——

Senator WATKINS. Have I stated it substantially correct now?

Mr. MURIN. Committee, I do believe that there would be a tendency for self-incrimination.

Senator WATKINS. Just a tendency?

Mr. MURIN. Yes, sir.

Senator WATKINS. I think you have to go further than that under the claim of immunity.

Senator EASTLAND. Yes; it is overruled on that basis.

Mr. MURIN. I believe that it would tend to incriminate me.

Senator WATKINS. Well, that's better, if you're going to claim the protection of the fifth amendment.

I want to make it perfectly clear that you understand what you're doing.

Mr. MURIN. Yes, sir; I do.

Senator WATKINS. That you have an honest belief that you would incriminate yourself if you told us about any college that you might have attended here in the United States.

Mr. MURIN. That is my understanding, sir.

Senator WATKINS. What is that?

Mr. MURIN. That is my understanding, sir.

Senator WATKINS. All right. Let's make it clear for these people, and for the record.

Mr. MORRIS. Now, the fact of the matter is you attended Boston University, didn't you?

(The witness consults with his counsel.)

Mr. MURIN. I have stated that I refuse to answer that question, sir.

Mr. MORRIS. And you were also a transfer student—

Senator WATKINS. Just a moment, Mr. Morris.

I want to find out now if you have an honest belief that if you admitted that you attended Boston University, that that might be incriminating.

Mr. MURIN. I thought—

Senator WATKINS. I know something about Boston University and I don't want any reflections on Boston University.

Mr. MURIN. I thought that was implicit in my answer, sir.

Senator WATKINS. You still believe that if you admitted you attended Boston University that might furnish incriminating evidence against you? Is that right?

Mr. MURIN. That was my answer and that is my answer.

Senator WATKINS. All right. So we have the record clear.

Mr. MORRIS. Senator, I might point out at this time, even though I don't mean to advance sight this, but if this particular witness says he joined the Young Communist League while at Boston University, he might honestly believe by admitting the fact that he was at Boston University might conceivably be used in some kind of a trial.

Senator WATKINS. Well, that would be the wildest kind of speculation, and I wouldn't think that that would be any part of Boston University's curriculum, to have a Young Communist League. I happen to know the colleges in this country for the most part are 100 percent loyal and they do not tolerate or have as a part of their official organization anything like the Young Communist League.

Mr. MORRIS. Now, Mr. Murin, did you attend a closed meeting of the district meeting of the Communist Party held at 1800 Center Avenue in Pittsburgh on April 19, 1942?

Mr. MURIN. I must refuse to answer that question, on the same grounds stated previously.

Mr. MORRIS. You have been a Young Communist in Pittsburgh, have you not?

Mr. MURIN. Same answer, sir.

Mr. MORRIS. While you were at Boston University, were you chairman of the American Veterans' Committee chapter?

Mr. MURIN. Same answer, sir.

Mr. MORRIS. Were you deposed as chairman of that committee when you refused to sign a resolution against the Communist Party as ordered by the national planning committee of the AVC?

Mr. MURIN. Same answer, sir.

Mr. MORRIS. You are an organizer for the UPW here in Hawaii, are you not?

Mr. MURIN. Same answer, sir.

Mr. MORRIS. Mr. Murin, I notice you were in the courtroom when Mr. Epstein testified yesterday, and again when Mr. Roffman testified. As you know and as you have heard and as our record shows, the subcommittee is desirous of obtaining information about the identity of all people who are organizing for the United Public Workers. We ask this information because we have evidence that Communists are organizing within that particular organization. And I ask you with great particularity if you will not tell us the names of the people you know who are organizing the United Public Workers at this time?

(The witness consults with his counsel.)

Mr. MURIN. For the same reasons, sir, that I stated earlier, because of the immunity granted me by the Bill of Rights, particularly the first amendment and the fifth amendment, and I do refuse to answer that question.

Senator WATKINS. Do you know whether or not there are organizers that are attempting to do just what counsel has stated? I am not asking you to say what they're doing. I want to know if you know. In your own mind, do you know?

(The witness consults with his counsel.)

Mr. MURIN. I must refuse to answer that question on the same ground.

Senator WATKINS. I think that is one question on which you can't claim immunity, because whatever you know, you know in your own mind, and I am not asking you to state the facts. I am merely asking you to answer whether or not in your own mind, you know whether that is going on or not.

Senator WELKER. Mr. Chairman, I suggest the Senator from Utah is imminently correct. And I would suggest that the witness be ordered and directed to answer that question.

Senator EASTLAND. Let the witness answer. The Chair will make the decision.

(The witness consults with his counsel.)

Mr. MURIN. I must stand on the same ground, that of immunity granted under the Bill of Rights.

Senator EASTLAND. Now, that's overruled, and you're ordered and instructed to answer the question, please.

Mr. MURIN. I refuse to answer the question, on the grounds of the first and fifth amendments to the Constitution of the United States.

Senator WATKINS. I submit, Mr. Chairman, that under the circumstances, that if he doesn't know this is going on, he couldn't possibly incriminate himself by answering and saying he didn't know anything about it. He could have answered that to the counsel. But he must know, have that knowledge in his mind, in order to furnish a basis for a claim of immunity that to give a truthful answer might incriminate him.

Mr. MURIN. I don't believe, sir, that that speculative statement on your part—

Senator WATKINS. I didn't ask you a question. I merely made a comment.

Mr. MURIN. I said I didn't consider it as a question. It sounded like a statement on your part.

Senator WATKINS. It wasn't a question to you. I was merely pointing that out to the committee.

Mr. MURIN. Oh, I see. I am sorry.

Senator WATKINS. I didn't give you an opportunity to make a speech. If you want to—

Mr. MURIN. No.

Senator WATKINS. We will get around to that a little later?

Mr. MURIN. No, I—

Mr. MORRIS. Mr. Chairman, we had someone come into the committee here a few days ago and told us that from his own experience he knew that this man, this witness here today, was in the past a member of the Hawaii Youth for Democracy. That is a Communist organization roughly comparable to the Young Communist League.

Is that information that this man gave us the other day accurate, Mr. Murin?

(The witness consults with his counsel.)

Mr. MURIN. I refuse to answer that question, sir, on the same ground.

Mr. MORRIS. All right. Were you not a member, as this man has told us, of the American Youth for Democracy chapter at the University of Hawaii.

Mr. MURIN. Same answer, sir.

Mr. MORRIS. In fact, you were a teacher at the classes held by the American Youth for Democracy, were you not?

Mr. MURIN. Same answer.

Mr. MORRIS. And were not some of these classes held at the home of John Reinecke, who has been identified during this hearing?

Mr. MURIN. Same answer.

Mr. MORRIS. Mr. Chairman, yesterday, in connection with this United Public Workers, we read into the record four conclusions of the Territorial commission about that subject. I would like to read them again at this time, Mr. Chairman, and just ask the general question.

(1) The United Public Workers in Hawaii is controlled by the Communist Party through the instrument of Henry Epstein and other paid employees of the union, Stephen Murin, Max Roffman, and Jeanette Nakama Rohrbough.

Is that an accurate conclusion, Mr. Murin?

Mr. MURIN. I must refuse to answer that question, sir, on the basis of the immunity granted me under the Bill of Rights, and particularly the first and fifth amendments.

Mr. MORRIS. Second conclusion:

The Communist Party has exploited the United Public Workers and its membership primarily for Communist purposes.

Mr. MURIN. Same answer, sir.

Mr. MORRIS (reading):

(3) In conflict of interest between the Communist Party and rank-and-file membership of the union, the Communist Party interest has prevailed.

Mr. MURIN. Same answer.

Mr. MORRIS. "Fourth: The elected officials of the union and the rank-and-file cannot or will not recognize that their union is Communist dominated. So far as is known, they have taken no steps to rid the union of its Communist taint."

Is that an accurate conclusion?

Mr. MURIN. Same answer, sir.

Mr. MORRIS. Mr. Chairman, I have no more questions of this witness, but I do say, as the record now indicates, Senator, the committee would like to have more evidence and information about the United Public Workers.

Senator EASTLAND. Senator Watkins.

Senator WATKINS. I have no further questions.

Senator EASTLAND. Senator Johnston.

Senator JOHNSTON. Is it or is it not true that the Government even sent you to college?

(The witness consults with his counsel.)

Mr. MURIN. I decline to answer that question on the same grounds previously stated.

Senator JOHNSTON. You decline to answer that question, that simple question, whether or not the Government of the United States sent you to college, and of course the Government has that record already. And you refuse to answer that, although your Government was that good to you?

(The witness consults with his counsel.)

Mr. MURIN. Because formerly I have declined to answer other questions about my university background, and I therefore must refuse to answer this question.

Senator WATKINS. Do you have a university background?

Mr. MURIN. I must refuse to answer that question.

Senator WATKINS. Why, you mentioned it yourself. You answered about your university background. That's an admission you had one. Now, is it true that you did have a university background?

Mr. MURIN. You asked me whether I had a university background.

Senator WATKINS. I ask you right now.

Mr. MURIN. Same answer, sir.

Senator WATKINS. Mr. Chairman, I don't think that the witness can now claim immunity. He has said in effect that he has a university background. And we ought to have a clear-cut admission or statement whether he does or does not have any.

Mr. MURIN. I believe the record will show that I was saying I had a university background because of questions you had asked me previously.

Senator WATKINS. You admit that you did have a university background?

Mr. MURIN. I did not.

Senator WATKINS. You did not admit it?

Mr. MURIN. I don't believe I did, sir.

Senator WATKINS. I don't know whether you did or you didn't. Now, what do you say?

Mr. MURIN. I said I refuse to answer the question on the same grounds I have stated previously. Let's stop there.

Senator WATKINS. I understood you to say a moment ago, in effect you admitted that you did have a university background; is that right?

Mr. MURIN. I would answer that on the same grounds that I have stated before.

Senator WATKINS. The record will show what you said, I am sure, and I think you did admit you had one. And under the rules, or I mean under the cases decided by the Supreme Court, you have opened

up that subject at least, and it is something to find out, about your university background.

Senator EASTLAND. He has. He is ordered and directed to answer the question.

Mr. MURIN. Are you going to ask me the question now?

Senator EASTLAND. You are ordered to answer the question.

Mr. MURIN. I must refuse to answer the question, on the same immunity granted me in the Bill of Rights and particularly the first and fifth amendments.

Senator WATKINS. You understand in so refusing you might possibly lay yourself open to a contempt prosecution?

Mr. MURIN. I do so understand. I regret it. I think these are tough times.

Senator WATKINS. I am calling it to your attention so that you may be fully advised of what you are doing, that it might possibly result in a contempt citation and possibly a conviction.

Mr. MURIN. I realize that.

Senator WATKINS. So I want to make it clear so no one will be taken advantage of.

Mr. MORRIS. I have no more questions, Senator.

Senator EASTLAND. Senator Johnston.

Senator JOHNSTON. No further questions.

Senator EASTLAND. Senator Welker.

Senator WELKER. Mr. Witness, what do you for a living?

Mr. MURIN. Same answer, sir.

Senator WELKER. You don't want to tell us whether or not you're a clerk down here in Kress' store or any other occupation that might be honorable and not connected in any way with the Communist movement?

Mr. MURIN. Same answer, sir.

Senator WELKER. I notice in your direct interrogation by Counsel Morris you made the statement that you lived for a portion of the time on this island and a portion of the time on another island. Now, will you explain the reasons why?

Mr. MURIN. Same answer, sir.

Senator WELKER. Now, just a moment. You're the man who answered. Now, we're entitled, as a matter of law and as a matter of fact, to find out why you have two residences, why you live a portion of the time here and a portion of the time some place else.

(The witness consults with his counsel.)

Mr. MURIN. Same answer, sir.

Senator WELKER. You have been in Pittsburgh, Pa.?

(The witness consults with his counsel.)

Mr. MURIN. Same answer, sir.

Senator WELKER. Do you desire to tell me any of the cities on the mainland you have been through or in besides that?

Mr. MURIN. Same answer, sir.

Senator WELKER. Do you think if you told me that you passed through Denver, Colo., stopped for 2 minutes, that that might tend to incriminate you?

Mr. MURIN. Same answer.

Senator WELKER. Now, let's be realistic. You know Steve Nelson?

(The witness consults with his counsel.)

Mr. MURIN. Same answer, sir.

Senator WELKER. Do you know who Steve Nelson is in the Communist conspiracy?

Mr. MURIN. Same answer.

Senator WELKER. That not being his true name but his alias. I suppose he goes by the name of Steve Nelson now. He has two names. Did you ever attend any testimonial dinners or celebrations given in honor of Steve Nelson?

Mr. MURIN. Same answer, sir.

Senator WELKER. Do you know Steve Nelson to have been in the Abraham Lincoln Brigade?

Mr. MURIN. Same answer.

Senator WELKER. Have you ever been in Communist-controlled countries?

Mr. MURIN. Same answer, sir.

Senator WELKER. Did you ever attend the Lenin School in Moscow, Russia?

Mr. MURIN. I think you ask ridiculous questions now, sir.

Senator WELKER. Sir?

Mr. MURIN. I believe you are asking ridiculous questions.

Senator WELKER. Very well. Now, that it be ridiculous, you go ahead and answer it; will you?

Mr. MURIN. The answer is "No."

Senator WELKER. You never attended that school?

Mr. MURIN. You know I never did.

Senator WELKER. I didn't know. I do not know anything of the sort, sir. Now, that you think that you have your immunity, you have told me you didn't attend the Lenin School. Now, will you tell me what schools you did attend?

Mr. MURIN. Same answer as I have stated previously.

Senator WELKER. What's the difference in attending a Lenin School or the Sons and Daughters of I Will Arise School?

Mr. MURIN. I didn't come to debate with you, sir.

Senator WELKER. Sir?

Mr. MURIN. I didn't come here to debate with you.

Senator WELKER. I don't care. You're going to answer the questions.

Mr. MURIN. I said I refuse to answer that question, sir.

Senator WELKER. You seemed to take great offense when I asked you whether or not you attended the Lenin School.

Mr. MURIN. Because you know that there is no truth to any ridiculous implications like that. You know I have been in the war; you know what I've done since the war time. Don't give me that kind of—

Senator WELKER. Now, it is a ridiculous question and you say that you didn't—

Mr. MURIN. Ridiculous question. It deserves a ridiculous answer.

Senator WELKER. Attend that, and that we know you didn't attend it. So now will you tell us whether or not you attended the University of Hawaii?

Mr. MURIN. I refuse to answer that question, on the same ground.

Senator WELKER. Is that a ridiculous question, too?

Mr. MURIN. Given to me by the Constitution.

Senator WELKER. Is that a ridiculous question, too?

Mr. MURIN. I refuse to answer that question, sir.

Senator WELKER. Did you attend Boston University?

Mr. MURIN. I answered that question previously.

Senator WELKER. All right. I will ask you my own questions, and you answer them, sir. Did you attend Boston University?

Mr. MURIN. I refuse to answer that question.

Senator WELKER. Is that a ridiculous question?

Mr. MURIN. On the ground of the first amendment and the fifth amendment.

Senator WELKER. Is that a ridiculous question?

(The witness consults with his counsel.)

Mr. MURIN. Previously, sir—

Senator WELKER. Answer the question.

Mr. MURIN. I had asked you gentlemen to introduce yourselves. I don't know who you are.

Senator WELKER. That doesn't make any difference.

Mr. MURIN. I would like to call your—I would like to call you by your names.

Senator WELKER. You can find out. You answer the question. And I ask the chairman to order and direct you to answer that question.

Mr. MURIN. I was going to say, previously you refused to introduce yourself. Now you refuse to talk to me as you would to a gentleman. I would like to have you talk to me just—differently. If you will talk to me differently, I'll talk to you differently.

Senator WELKER. I want to be just as sweet and nice to you as I can.

Senator EASTLAND. Order.

Senator WELKER. I want no more debate from you or we are going to have to invoke some rules.

Mr. MURIN. That's precisely what I said. I didn't come here to debate with you, sir.

Senator WELKER. Oh, I wish you had. I wish you had. But, sir, we don't have that provision here.

Mr. MURIN. I will be glad to do it on any other platform, any other time.

Senator WELKER. Certainly. I will be glad to debate with you at any time, in public debate or otherwise.

Mr. MURIN. Fine. I will accept the challenge.

Senator WATKINS. Mr. Chairman.

Senator EASTLAND. Senator Watkins.

Senator WATKINS. Just a moment, Senator.

Senator WELKER. Yes, Senator.

Senator WATKINS. Will the Senator yield for a moment?

Senator WELKER. Yes, Senator.

Senator WATKINS. The witness has asked, I think when he was first sworn, that the people be introduced to him. Now, he may have done that in good faith.

Mr. MURIN. It was completely in good faith.

Senator WATKINS. Now, I want to ask you this question. Do you know that this is a subcommittee of the Judiciary Committee of the United States Senate?

Mr. MURIN. Yes, sir.

Senator WATKINS. Known as the Internal Security Subcommittee?

Mr. MURIN. Yes, sir; I do.

Senator WATKINS. Now, do you know that the men sitting here, asking the questions, are Senators of the United States and members of that committee?

Mr. MURIN. I was told as much. The only man I know actually is Mr. Morris.

Senator WATKINS. Mr. Morris is not a member of the committee, but he is a staff member. Now, just for the purpose of the record——

Mr. MURIN. It certainly shows I asked in good faith.

Senator WATKINS. I am going to take the privilege now, if the chairman will grant it, and introduce the Senators, so you will know them.

Mr. MURIN. Thank you very much.

Senator WATKINS. Senator Butler, on the extreme right of me; Senator Butler, of Maryland.

Mr. MURIN. How do you do.

Senator WATKINS. Senator Welker, of Idaho. Oh, yes. Senator Johnston. He is such an inconspicuous man that I missed him. Senator Johnston of South Carolina.

Mr. MURIN. How do you do.

Senator WATKINS. Senator Eastland, the chairman.

Mr. MURIN. How do you do, sir.

Senator WATKINS. Mr. Morris, our chief counsel.

Mr. MURIN. How do you do.

Senator WATKINS. And I am Senator Watkins, of Utah.

Mr. MURIN. Thank you very much, Senator Watkins.

Senator EASTLAND. Now proceed.

Mr. MURIN. I think a courtesy like that is very much appreciated.

Senator WELKER. You haven't been reading the papers, I take it, since this committee came to the island?

(The witness consults with his counsel.)

Mr. MURIN. There were so many different classifications to pass on, I didn't know which of them to use. I have read the papers, but so much brilliant questioning was brought out here it is difficult for me to associate the particular members sitting before me.

Senator WELKER. You saw photographs of every member of the committee, and their names, and their face?

Mr. MURIN. Yes, sir; I did.

Senator WELKER. And yet you deem it——

Mr. MURIN. I will warrant, sir, that you don't know my name.

Senator WELKER. Sir?

Mr. MURIN. I will warrant that you don't know my name.

Senator WELKER. No; I don't know your name, because you will probably take the fifth amendment on me if I would ask you. I don't care about your name.

Mr. MURIN. You know me. You have got everything on me. You have got everything there and yet you refuse——

Senator WELKER. Now, I want to ask you this question. Getting down to brass tacks here with respect to your education. You have told us about your grade schools and so forth. There came to be a time where you seem to cut off your answers and refused to answer on the

fifth amendment, which we recognize, and I think you used the first amendment. Now, as kindly and as sweet as I can be to you, I'll ask you if it isn't a fact that you have attended the California Labor School?

Now, just a moment. Mr. Counsel—Madam Counsel. You are familiar with the rules of this committee, and when—you are here as a guest of this committee, and when you lean over and suggest to your client, you're bringing embarrassment upon yourself. I've said that three times in these hearings. And I shall ask the chairman for a strict ruling if I see you doing it any more.

Mr. MURIN. I would like to take the responsibility for that, sir, Senator Welker, because I intended to and then drew back myself.

Senator WELKER. Well, you didn't ask her anything, did you?

Mr. MURIN. I did, sir.

Senator WELKER. No; you didn't. Now, I'll ask you to answer that question.

Mr. MURIN. I refuse to answer that question, on the same ground as stated previously.

Senator WELKER. And you still don't want to tell us why you reside part of the time on this island and part of the time on another island?

Mr. MURIN. That is right, sir.

Senator WELKER. And you don't desire to tell us how you make a living?

Mr. MURIN. That is right, sir. Same reason, same ground.

Senator WELKER. I think that's a pretty good inference, a pretty good presumption of what you do. Thank you, Mr. Witness.

Mr. MURIN. Thank you, Senator Welker—ex-Senator Welker.

Senator WATKINS. I just wanted to ask him the same question I have asked other witnesses.

You refuse to answer how you make a living on the ground that if you gave a truthful answer it might incriminate you. Now, of course that brings up some implications, even though the courts may say it doesn't, and all that sort of thing, but it actually does bring up some implications. I want to know if you honestly believe, sincerely believe, that if you gave a truthful answer to the question of how you make a living, you might incriminate yourself. I want to know if that is the basis of your refusal to answer, your basis for claim under the fifth amendment.

(The witness consults with his counsel.)

Mr. MURIN. Yes, sir. I believe that that answer these days before the conditions we have now would tend to incriminate me.

Senator WATKINS. I will ask you one further question. Are you engaged in any activities that might subject you to a criminal prosecution?

(The witness consults with his counsel.)

Senator WATKINS. Do you want to claim the protection of the fifth amendment on that one?

Mr. MURIN. I appreciate the spirit in which you ask the question, sir, Senator Watkins, but I believe the very purpose of the fifth amendment was to make it unnecessary to answer questions like that.

Senator WATKINS. Do you claim the protection of the fifth amendment with respect to that one?

Mr. MURIN. Yes, sir.

Senator WATKINS. And you now honestly believe if you gave a truthful answer to that question I have just asked you, with respect to whether or not you are conducting any activities or engaged in any activities might subject you to criminal prosecution, might incriminate you if you gave a truthful answer to it?

Mr. MURIN. I must answer "Yes."

Senator WATKINS. The answer is "Yes."

Senator EASTLAND. Mr. Murin, a number of witnesses have come before the Internal Security Subcommittee and have stated frankly their participation in the Communist movement. Some have even testified very frankly about espionage for the Soviet Union. When a witness does that, no hand has ever been raised against him because he has well served the United States.

Now, you have absolutely nothing to fear by a full and frank disclosure of your activities if you have been in the Communist movement.

I remember Mr. Winston Burdette, a national news commentator, who was sent to Europe as an agent, as an espionage agent, during the Russo-Finnish War. He came down and made a full and frank disclosure; he was very helpful to his country, and he had the good will of all Americans. In fact, he was thanked and congratulated by the committee. And there was no attempt to prosecute him.

We make you the same offer, provided you have been involved in the Communist movement. And our information is that you have.

(The witness consults with his counsel.)

Mr. MURIN. I didn't detect the question involved in the statement you made. Will you ask the precise question, please?

Senator EASTLAND. I asked you no question. I simply assured you that you were in no danger of prosecution by a full and frank disclosure.

Mr. MURIN. I would like to know if there are any further questions, sir.

Senator EASTLAND. Now, in the light of what the chairman has stated, would you change the answer to a single question that has been asked you? Do you desire to change an answer to a single question that has been asked you?

Mr. MURIN. No, sir.

Senator EASTLAND. You do not?

Mr. MURIN. No, sir.

Mr. MORRIS. The next witness, Senator, is Mr. Rohrbough.

Senator EASTLAND. Mr. Murin, you remain under the subpoena. You understand that?

(The witness consults with his counsel.)

Mr. MURIN. Thank you, sir.

Mr. MORRIS. Senator, we are desirous of learning something about the nature of the Honolulu Record.

Senator EASTLAND. Do you solemnly swear—Hold your hand up, please.

Do you solemnly swear the testimony you are about to give the Senate Internal Security Subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ROHRBOUGH. I do.

TESTIMONY OF EDWARD ROHRBOUGH

Mr. MORRIS. Senator, this particular witness is called at this time because, according to our evidence, he is the principal stockholder of the Honolulu Record and he is also a writer for the Honolulu Record. That is the evidence that we have received.

Mr. Rohrbough, would you give your name and address to the reporter?

Mr. ROHRBOUGH. Edward Rohrbough; 1127-B Alohi Way.

Mr. MORRIS. Will you spell your name for the shorthand reporter?

Mr. ROHRBOUGH. R-o-h-r-b-o-u-g-h.

Mr. MORRIS. Were you born on June 6, 1911, in Glenville, W. Va.?

Mr. ROHRBOUGH. That is correct.

Mr. MORRIS. Did you attend Glenville State College in West Virginia?

Mr. ROHRBOUGH. That is correct.

Mr. MORRIS. Did you later attend the University of Virginia?

Mr. ROHRBOUGH. That is correct.

Mr. MORRIS. University of Mexico?

Mr. ROHRBOUGH. National University of Mexico. Yes.

Mr. MORRIS. National University of Mexico. The University of Texas?

Mr. ROHRBOUGH. Yes, sir.

Mr. MORRIS. In fact, you were a teacher at the University of Texas, were you not, Mr. Rohrbough?

Mr. ROHRBOUGH. Yes, sir.

Mr. MORRIS. Now, you worked for the Office of War Information during the war, did you not?

Mr. ROHRBOUGH. Yes, sir.

Mr. MORRIS. When did you first take up employment with the OWI?

Mr. ROHRBOUGH. I believe it was in 1943, sir.

Mr. MORRIS. Would you tell us the circumstances surrounding your becoming employed with the OWI?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. Well, sir, there is no special circumstance I know of except I went and applied and was employed.

Mr. MORRIS. We would just like to know how that came about.

Mr. ROHRBOUGH. I will have to rake my memory for a moment. I heard there was an opening. I heard there were people being employed for overseas service, and the newspaper I had been working for, or rather the magazine I had been working for—

Mr. MORRIS. What was that magazine?

Mr. ROHRBOUGH. Newsweek magazine—showed no inclination to send me overseas and so I went and applied with the OWI.

Mr. MORRIS. Then what was your assignment in the OWI?

(The witness consults with his counsel.)

Mr. MORRIS. Senator, I notice it is the end of 1 hour, and it is customary to give the reporter a break.

Senator EASTLAND. We will take a 2-minute recess.

(A 2-minute recess was taken.)

Senator EASTLAND. The committee will come to order.

Mr. MORRIS. Will you answer the question, Mr. Rohrbough? I asked you what your duties were generally in the OWI.

Mr. ROHRBOUGH. What did I do in the OWI?

Mr. MORRIS. Yes. What did you do?

Mr. ROHRBOUGH. Well, I was employed by the—I think they called it the Overseas Outpost Agency, or something like that, division of it.

Mr. MORRIS. Where was that, in Washington or—

Mr. ROHRBOUGH. That was in New York.

Mr. MORRIS. In New York. Actually, in 1944 you went to China for the OWI; did you not?

Mr. ROHRBOUGH. Yes, sir; 1944.

Mr. MORRIS. And you were attached to the United States Army and the Army of the Chinese Nationalist government?

Mr. ROHRBOUGH. That is correct.

Mr. MORRIS. After V-J Day you resigned from the OWI; did you not?

Mr. ROHRBOUGH. That is correct.

Mr. MORRIS. And then you became a correspondent for the United Press; did you not?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I am going to decline to answer that question, on the grounds of the first and fifth amendments.

Mr. MORRIS. Now, in your assignment by the United Press, you were assigned to cover the Chinese Communist assault on the Chinese Nationalist government, and you yourself were assigned to the Chinese Fourth Army, were you not, to cover the Chinese Fourth Army?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I am going to decline to answer that question, on the ground it may tend to incriminate me.

Mr. MORRIS. Mr. Rohrbough, when you first took up employment with the OWI, were you at that time a Communist?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that question, on the grounds of the first and fifth amendments.

Mr. MORRIS. Pardon.

Mr. ROHRBOUGH. I refuse to answer that question, on the grounds of the first and fifth amendments.

Mr. MORRIS. Senator, may I have a ruling on that?

Senator EASTLAND. Repeat the question.

Mr. MORRIS. He invoked the privilege under the first and the fifth amendments, sir.

Senator EASTLAND. I thought it was understood—it is understood that any refusal based on the first amendment is overruled.

Mr. MORRIS. When you were attached to the United States Army and the Army of the Chinese Nationalist Government for the OWI, were you at that time a Communist?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. Same answer, sir.

Mr. MORRIS. You are the principal stockholder, are you not, Mr. Rohrbough, for the Honolulu Record?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I decline to answer that question, on the grounds of the first and fifth amendments.

Mr. MORRIS. Mr. Chairman.

Have you been connected with the China Monthly Review?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I decline to answer that question, on the grounds of the first and fifth amendments.

Senator EASTLAND. What is the China Monthly Review, Mr. Counsel?

Mr. MORRIS. Mr. Mandel, will you tell us what the China Monthly Review is?

Mr. MANDEL. The China Monthly Review was the subject of a hearing before the Senate Internal Security Subcommittee; it was edited by John W. Powell, who has since been indicted for his activity because the paper was used in propagandizing American prisoners of war in Communist China.

Mr. MORRIS. Now, when you left the OWI in 1945, you remained in China to cover the civil war; did you not?

Mr. ROHRBOUGH. Same answer.

Mr. MORRIS. Articles under the byline of Edward Rohrbough appeared in the March 23, April 6, April 20, May 18, 1946, issues of the China Weekly Review. Did you write for the China Weekly Review while you were in China?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. Same answer.

Mr. MORRIS. Mr. Chairman, I would like to read into the record a paragraph from a staff analysis and a staff résumé of our evidence here.

This reads:

In the latter part of 1945 Rohrbough left the OWI in Shanghai and remained in China to cover the civil war. The masthead of the China Weekly Review (forerunner of the China Monthly Review), dated April 20, 1946, contains the names of the since deceased J. B. Powell (father of John W. Powell), as editor and publisher, and also lists John W. Powell and Edward Rohrbough. Articles under the byline of Edward Rohrbough appeared in the March 23, April 6, April 20, and May 18, 1946, issues of the China Weekly Review.

Senator, I would like to put this whole thing in the record at this time. And the Senators may want to analyze it and possibly may want to ask—

Senator EASTLAND. It may be admitted in the record.

(See exhibit No. 394 on p. 2433.)

Senator EASTLAND. Any more questions?

Senator WATKINS. I have some questions.

Senator EASTLAND. Senator Watkins.

Senator WATKINS. I would like to ask you, Mr. Rohrbough, about the Honolulu Record. I understood you refused to answer any questions with respect to that Record, or at least the ownership of it or your holding stock in it. Is that true?

Mr. ROHRBOUGH. Yes, sir; I refuse to answer on the grounds of the first and fifth amendments.

Senator WATKINS. Have you read or seen copies of the Honolulu Record?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. Same answer.

Senator WATKINS. You honestly believe, if you gave a truthful answer to that, that you might be furnishing evidence against you and a possible criminal prosecution?

Mr. ROHRBOUGH. I believe I might be.

Senator WATKINS. You think it would be an offense to read or to have seen copies of the Honolulu Record?

Mr. ROHRBOUGH. I believe it might tend to incriminate me.

Senator WATKINS. It might tend to incriminate you if you saw it? Well, that will be very good news for the members of the community here, if you're right on that. And possibly the Post Office Department ought to be advised as well, if that statement of yours is true. Now, are you acquainted with the requirements of the laws of the Territory with respect to corporations?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. No, sir; not to any extent.

Senator WATKINS. Not to any extent. Do you know, for instance, that the stockholders are a matter of public record in a corporation, a newspaper corporation?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. No; I don't know that, sir.

Senator WATKINS. You don't know that?

Mr. ROHRBOUGH. No.

Senator WATKINS. You have had experience over many years, representing newspapers, have you not?

(The witness consults with his counsel.)

Senator WATKINS. Can't you answer that question?

Mr. ROHRBOUGH. Just a moment, sir.

Senator WATKINS. All right.

Mr. ROHRBOUGH. I will decline to answer that question on the grounds of the first and fifth amendments.

Senator WATKINS. Have you been a reader of newspapers?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. Yes, sir.

Senator WATKINS. You finally came up with an answer to that one. Have you ever seen published at certain intervals, in the newspapers of this country, magazines, a statement about the ownership and management of the newspapers, as required by the postal laws of the United States; have you ever seen those statements?

Mr. ROHRBOUGH. Yes, sir. But not stockholders.

Senator WATKINS. What's that?

Mr. ROHRBOUGH. But not stockholders.

Senator WATKINS. Those owning a certain percentage of the stock-ownership is required, is it not, the names of them?

(The witness consults with his counsel.)

Senator WATKINS. I think your lawyers will advise you that that is one of the requirements. At least, I have been reading the newspapers for a good many years, and I was in the business for a while. We all had to give a statement as to the ownership of the newspaper, one of the things the people of the country are entitled to know.

Mr. ROHRBOUGH. I think that's correct, sir.

Senator WELKER. What was the answer, Mr. Witness?

Senator WATKINS. He said, "That is correct."

Have you ever seen the statement of the ownership published in the Honolulu Record, as required by the statute?

Mr. ROHRBOUGH. I refuse to answer that, on the ground of the first and fifth amendments.

Senator WATKINS. Have you ever seen your own name in that statement as one of the owners?

Mr. ROHRBOUGH. I refuse to answer that, on the grounds of the first and fifth amendments.

Senator WATKINS. Well, you apparently haven't been reading the Honolulu Record. Is that right?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. Same answer.

Senator WATKINS. Do you think it would incriminate you to read the Honolulu Record?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. Well, I believe, under the first and fifth amendments, I think I am protected from answering that question.

Senator WATKINS. Now, do you honestly believe, Mr. Rohrbough, that if you admitted that you read the Record, that I have just referred to, that there could be any possible basis for a charge, a criminal charge of any kind?

Mr. ROHRBOUGH. I believe I am—

Senator WATKINS. An admission that you had read that paper would be something that could be used against you to show you had been guilty of a crime?

Mr. ROHRBOUGH. I believe I might be tending to waive my constitutional rights in this matter.

Senator WATKINS. I see. I don't think it would incriminate you. It might possibly, from what I have heard here, contaminate you, but not incriminate you.

Mr. MORRIS. Mr. Chairman, I notice that Irving Fishman, who was scheduled to be a witness here, a customs official, has arrived. Now, before asking any more questions of this particular witness, I would like to have a conference with Mr. Fishman, because he is an expert in the field to which we are going. Not only that, Senator, but there is considerable other evidence and information about this particular witness I would like a little time to marshal my material.

Senator WATKINS. Mr. Chairman, I would like also to have the staff of this committee get the Honolulu Record and ask the management to come over here and testify with respect to the ownership of that paper, see if they claim the protection of the fifth amendment too.

Senator EASTLAND. That is so ordered.

Mr. MORRIS. It will be done, Senator.

Senator EASTLAND. They will be subpenaed. A subpena will issue.

Mr. Witness, you may step aside temporarily. You will be called back at the afternoon session.

Is there some other matter now, Mr. Counsel?

Mr. MORRIS. Yes, sir. There is one thing I would like to have settled right now, Senator.

Will Mr. Andersen, Mr. Symonds, and Mrs. Bouslog come forward, please? I would like to talk about that subpena.

Since yesterday, Senator, we have had several conferences with counsel, and rather than describe the relationship, I think if they will come forward, they have indicated that they, Counsel Andersen and Counsel Symonds, have indicated that the records will be made available. There are a couple of technicalities and difficulties that they think will be straightened out. We told them we are trying to be reasonable about it.

(Discussion at the bench not audible to the reporter.)

Senator WATKINS. Mr. Chairman.

Senator EASTLAND. Yes, sir.

Senator WATKINS. Is this intended to be a discussion with the members of the committee with respect to what ought to be done or what will be done?

Mr. ANDERSEN. I was just asked to approach the bench.

Senator WATKINS. I would suggest, Senator, if it is going to be that type of a conference, that it be done in executive committee.

Senator EASTLAND. I think so, too. I understood there had been an agreement.

Mr. MORRIS. Not quite, Senator. We are pretty close to an area of agreement.

Mr. ANDERSEN. We want to discuss it.

Senator EASTLAND. That should certainly be done in executive session.

Mr. MORRIS. May we have an executive session now, Senator?

Senator EASTLAND. Yes.

Senator WATKINS. Now, just a moment, before we do. I think on other matters here the record should be cleared up somewhat. There was a reference here earlier, Mr. Chairman, to Abram Flaxer. And I think one of the witnesses was questioned about him. And I think the record should show something about Mr. Flaxer. And I suggest that Mr. Mandel has already been sworn before this committee and should give a statement of the evidence that has been received with respect to Mr. Flaxer. That also this statement, if it is admitted, be placed in the record immediately following the testimony of the witness who was interrogated with respect to Mr. Flaxer.

Senator EASTLAND. That is all right. We can take it now or we can take it this afternoon.

Senator WATKINS. I would like for it to go in the record so it won't miss out—

Senator EASTLAND. It is ordered into the record.

Proceed, Mr. Mandel.

Mr. MANDEL. Abram Flaxer appeared before the Senate Internal Security Subcommittee on October 5, 1951, identified himself as national president of the United Public Workers of America, and invoked the fifth amendment with regard to all questions concerning his Communist activity.

Senator EASTLAND. The committee will go into executive session.

Mr. MORRIS. The next public session, Senator, will be at 3:30.

Senator EASTLAND. 3:30.

Mr. MORRIS. Senator, will you ask the witnesses Koichi Omori, Yugo Okubo, and Wilfred Oka to stand by for testimony this afternoon?

Senator EASTLAND. They are under subpoena, aren't they?

Mr. MORRIS. They are.

Counsel, do you understand? The other witnesses will be available this afternoon.

Mrs. BOUSLOG. Yes; we understand.

Senator EASTLAND. Adjourned.

(Whereupon, at 10:55 a. m., the subcommittee recessed.)

AFTERNOON SESSION

The subcommittee met, pursuant to adjournment, at 3:30 p. m., in the senate chamber, Iolani Palace, Senator James O. Eastland (chairman) presiding.

Present: Senators Eastland, Watkins, Johnston, Welker, and Butler.

Also present: Robert Morris, chief counsel; Benjamin Mandel, research director; William H. Arens, investigator.

Senator EASTLAND. The committee will come to order.

Mr. MORRIS. Counsel Andersen, will you come forward, and we will put into the record this understanding of compliance with the subpoena.

Senator EASTLAND. All right, gentlemen. Dictate what you have agreed into the record.

Mr. ANDERSEN. Pursuant to the discussion—

Senator EASTLAND. Talk a little louder, please, sir; I can barely hear you.

Mr. ANDERSEN. Pursuant to a discussion I had a little while ago, which was supplemental to an executive session with the committee, on behalf of the clients that I represent, that is, local 142, Newton Miyagi as secretary-treasurer of the ILWU Memorial Association and local 142, ILWU, we agree, of course, that the Senate committee has jurisdiction to issue a subpoena, and pursuant to the subpoena served we will supply the information for the period stated in each subpoena relating to any and all moneys spent by local 142 for the defense of Jack Hall, including any and all moneys spent during the same period by local 142 in the last political campaign, and with the same stipulation in relation to the subpoena served upon the memorial association.

Senator EASTLAND. Wait a minute now. Wait a minute now. Wait just a minute. As I understood, there was no limitation on the information that the committee was to desire.

Mr. MORRIS. That is understood.

Senator EASTLAND. Is that understood? Is that understood?

Mr. ANDERSEN. I think that is just exactly what I said.

Senator EASTLAND. Well, no. You specified two things, but in addition, the committee is to get what information is desired. What additional information is desired.

Now, is that the agreement?

Mr. ANDERSEN. Maybe I overlooked part of the conversation we had in the executive session, and that is to the effect that you people might want to look at this information, either there or here; that is, you may question the information that we present. I have already stated that you have the right to issue a subpoena, and having the right to issue a subpoena, it certainly gives you the right to question anything. We have no objection to that.

Senator EASTLAND. Wait a minute now, Mr. Andersen. Wait a minute now. You are drawing the line too close there.

Mr. MORRIS. Mr. Chairman, may I make an effort to state our agreement, and see if this will conform with your understanding?

Mr. ANDERSEN. Maybe in the light of the Senator's statement maybe counsel and I should adjourn and agree in writing upon it before we have an argument here as to what—

Senator EASTLAND. Let him state it.

Mr. MORRIS. Let me see if I state it correctly.

Mr. ANDERSEN. All right. You may state it.

Mr. MORRIS. Counsel for the ILWU and the ILWU Memorial Association agree to make available the information sought by the committee, described in the subpoena. However, at the very outset, the committee has asked for only two items. One is the information regarding expenditures and disbursements on behalf of all seven defendants in the Smith Act by the union and by the association.

The second thing immediately sought would be the information with respect to the disbursements and expenditures during the 1956 campaign.

That is all that the committee has—

Mr. ANDERSEN. I think I have said the same thing.

Mr. MORRIS (continuing). Sought for, counsel. But in the event that something more may be desired, we don't have any contemplation of that now, you will also comply with that.

Mr. ANDERSEN. I believe so.

Senator EASTLAND. Wait a minute. You believe so. Now, what is the agreement?

Mr. MORRIS. Do you agree with that, counsel?

Mr. ANDERSEN. Yes.

Senator EASTLAND. All right. That's agreed. That is an agreement.

Mr. MORRIS. Yes, sir.

Senator JOHNSON. I notice the counsel said, "Jack Hall and other defendants."

Mr. MORRIS. I included all seven.

Senator JOHNSON. You want to do that. He didn't make—

Mr. MORRIS. Now the UPW. Now, what about that? Who will speak for that?

Mr. ANDERSEN. Of course, we may disagree as to terminology, but I think we understand each other.

It is the position of my clients that any money it spent was for Jack Hall, but you will see the records. The records will speak.

Mr. MORRIS. That's right. You will contend that the records—

Mr. ANDERSEN. We spent the money for the defense of Jack Hall, but you will see those records.

Mr. SYMONDS. On behalf of the United Public Workers, regarding the summons served on that organization, I enter into the same stipulation.

(Senator Watkins now acting as chairman.)

Mr. MORRIS. Mr. Cowart, for the benefit of Senator Watkins and Senator Butler, who just came in, will you read by summarization of the agreement between counsel and the committee, together with the acknowledgement on the part of counsel?

(The reporter then read the record as requested by counsel.)

Senator EASTLAND. As I understand it now, the subcommittee is to get what information it desires and when it desires it, but that this time there is only contemplated information on two items, which you specified, but we are in no wise limited now. Is that your understanding?

Mr. MORRIS. I think it is clear, Senator. Is that clear, Mr. Andersen?

Mr. ANDERSEN. Wait a minute. I don't want any misunderstanding. I don't want to be accused of backing down on an agreement, which I don't do. I told you upstairs, in executive session, that we did not concede the validity of this subpoena.

Mr. MORRIS. You have already.

Mr. ANDERSEN. I also told you that you could get another subpoena out in a half hour. That we didn't want to litigate—

Senator EASTLAND. That's correct. That is what you said.

Mr. ANDERSEN. I don't make misstatements. I remember what I said. And you served this subpoena, and rather than go through the courts and test the subpoena, we endeavored as gentlemen to modify it to a certain extent, to a certain extent, among ourselves.

Now the subpoena is still subject to all of our objections, sir. I don't want any misunderstanding about that.

Now, we agreed to supply this information that counsel requested and agreed to forbear attack upon the subpoena. Now, we still reserve objections to the subpoena.

Senator EASTLAND. Wait just a minute now.

I understand, Mr. Andersen, you agree to supply the information on the two items which counsel requests.

Mr. ANDERSEN. That's correct. Without waiving any legal rights we have. That's correct.

Senator EASTLAND. But forbearing any objections to the subpoena.

Mr. ANDERSEN. To the form of the subpoena. That is correct. And content.

Senator EASTLAND. All right.

Mr. ANDERSEN. That is right.

Senator EASTLAND. Now, as I understood, you were to supply whatever information we desired, without any strings attached, but that at this moment we desire information on the two items, which counsel mentioned.

Mr. ANDERSEN. Let's change that a little bit, if I may, so we will understand each other. Let's have our understandings correct.

My understanding of our discussion upstairs, and I believe all or most of the Senators were there, was that at this time you wanted, within the period set forth in the subpoena, certain information in relation to two items. I won't mention the items. We have mentioned them a half dozen times. And for that period we will supply it to you.

Senator EASTLAND. That's correct.

Mr. ANDERSEN. That's correct. We will supply those two items to you. Now, if you ask for anything else, I want to be put in the same position I was upstairs, in the executive session.

Senator EASTLAND. You made no agreement as to anything else?

Mr. ANDERSEN. Sir, the only agreement we had upstairs, in executive session, I told you that I would—I told you that I was the attorney for the International Longshoremen's Association, its general counsel.

Senator EASTLAND. Yes.

Mr. ANDERSEN. I told you as such counsel I could only recommend.

Senator EASTLAND. That's right, you did.

Mr. ANDERSEN. I told you that I didn't know whether they would accept my advice or not; I told you that sometimes my client accepts

my advice and sometimes my client doesn't accept my advice. That's the client's privilege.

Senator EASTLAND. That's correct.

Mr. ANDERSEN. I had a 2½-hour lunch with my clients. They agreed to follow my advice to the extent that we discussed upstairs. And the only thing I told them we had to produce, if they followed my recommendation, was in relation to those two items.

Now I think that is our understanding. I don't think anything should be superimposed upon it.

Senator EASTLAND. I am not trying to superimpose anything upon it. As I understood it, and I would like to hear from the other members of the committee, we were to get whatever information we desired for the record, but that presently we desired information on the two items. That was my understanding.

I am not accusing you of bad faith, Mr. Andersen.

Mr. ANDERSEN. I understand. But I observed that you attempted to superimpose something upon our general agreement, and that's why I came forward.

Senator WELKER. Mr. Chairman.

Just a minute, Mr. Andersen.

Senator WATKINS. Let the record show at this moment that the senior Senator from Utah is now acting as chairman under the direction of Chairman Eastland.

Senator BUTLER. I know there was some place in the conversation where reference was made to the fact that this was not to be a restrictive agreement. And when I suggested something about the two items, there were several other Senators said that we shall not be restricted to—

Mr. ANDERSEN. I agree; I agree. That is your position. You took the position that you would not be restricted. And I agreed that you wouldn't be restricted, but I didn't waive my right to object to the subpoena as written.

Senator Butler is correct and I'm correct.

Senator EASTLAND. Insofar as other items are concerned.

Senator BUTLER. That is substantially correct.

Senator WELKER. Mr. Chairman, I think the stipulation should go as to when—

Senator WATKINS. Just a moment.

Senator BUTLER. Mr. Chairman.

Senator WATKINS. Senator Butler. Senator Welker.

Senator WELKER. I think the stipulation should go further so as to say when he is going to produce the evidence of the two—

Mr. ANDERSEN. We have already discussed that.

Senator WELKER. Well, it isn't in the stipulation.

Mr. ANDERSEN. Oh.

Senator WELKER. We want that in the record as to when you—

Mr. ANDERSEN. Mr. Morris can state—

Mr. MORRIS. Within a reasonable time.

Mr. ANDERSEN. Yes.

Mr. MORRIS. Is that satisfactory to you, Senator Welker?

Senator WELKER. Yes.

Senator WATKINS. Do you agree as to what is a reasonable time?

Mr. ANDERSEN. We have agreed as close as we can agree. We have a gentlemanly agreement.

Senator WATKINS. All right.

Mr. ANDERSEN. May I request of the chairman that, for my own files, the chairman direct the reporter to transcribe this colloquy so that we will all have a copy of it, and particularly counsel for the respective witnesses.

Senator WATKINS. That is a reasonable request. It will be granted.

Mr. Andersen, will you come forward again, please?

Mr. MORRIS. There is still a little bit of misunderstanding about this. You have said twice here that there is no restriction imposed on the Senate. And you agree to that, don't you?

Mr. ANDERSEN. Yes; I agree that the Senate has the right to issue a subpoena. I conceded that upstairs, sir.

Mr. MORRIS. And now suppose, in encountering this particular problem, we come upon records, we come upon information that bears on the contention the committee advances that it bears on point No. 1, the expenditures for the seven Smith Act defendants.

Mr. ANDERSEN. Well, I don't see how you can reach that point.

Mr. MORRIS. Just a minute now. Let me finish. Supposing only, do you contemplate that you would have the right to say, "Well, that item does not come within the scope of those two items. Therefore, we are going to challenge the validity of these proceedings"?

Mr. ANDERSEN. No; I think I have waived that.

Mr. MORRIS. You have waived that.

Mr. ANDERSEN. Yes; I am sure that—

Senator WELKER. As to those two items.

Mr. ANDERSEN. I think I waived that upstairs in the executive session, and I am sure that Senator Watkins would say that. Wouldn't you, Senator?

Senator WATKINS. That's substantially correct, I think.

Mr. ANDERSEN. Yes. When I make an agreement, I abide by it.

Mr. MORRIS. Suppose, Mr. Andersen, we come upon something that is an expenditure to a man who was, may be—this is supposititious—indicted but whose case was dismissed before the trial, and it had to do with the same trial. What would your position with respect to that be?

Mr. ANDERSEN. I think that is so supposititious that it is beyond the realm of possibility, because I don't believe there could be such an imaginary set of facts.

Senator WATKINS. Suppose there is.

Mr. MORRIS. I want to bring out the point though. In other words, you would concede—you concede here now that we then could go into that fact?

Mr. ANDERSEN. Right now I can see certainly no objection to it. I think your statement, as I stand here, is fair and reasonable. I don't know what you have in mind.

Mr. MORRIS. Now the only thing here is—

Senator EASTLAND. We don't have anything in mind. We are just trying to see what the agreement was. That we have a meeting of the minds, that we understand each other. That's all.

Mr. ANDERSEN. Let's be specific. My recollection is not perfect about things. But my recollection, sir, is that in relation to that case you are talking about, nobody was dismissed from it.

Mr. MORRIS. I am saying that suppose something comes up in which the issue isn't precisely those 7 but is someone closely related to those 7; money is expended on behalf of that, and the committee asks for that particular information. What will your attitude be? Will you then say, Mr. Andersen, "Ah! We agreed only to waive our objection to the subpoena with respect to those two items. We will challenge the right of the committee to look into it, even though it is within the purview of—"

Mr. ANDERSEN. That I probably would.

Mr. MORRIS. Object?

Mr. ANDERSEN. Yes. And I will tell you why. We had an executive session and I made certain agreements, subject to the approval of my client. I have reflected that suggestion to my client. My client has agreed to follow my advice in relation to what I told him, and no more. And I reflected fairly our understanding to my client.

Now, if you want to add anything to it that might be suppositious, then I will have to discuss it with him again, but I think I have fairly and fully made a complete disclosure, my client has authorized me so far, and that is as far as their lawyers can go.

I think you are talking about something that won't arise. I can't imagine what you have in mind. Now, if you have something in your mind that I cannot see at the moment—

Senator EASTLAND. We have nothing—

Mr. MORRIS. We have nothing in our minds.

Mr. ANDERSEN. I think we have covered it.

Mr. MORRIS. Senator, the point there, as I analyze it, Senator, if something should come up outside the scope of these two items, as the record now stands, according to what Mr. Andersen now says, we would still have our rights under the subpoena, but it may be at that particular time Mr. Andersen might challenge the authenticity of the subpoena.

Mr. ANDERSEN. I think that is a fair statement.

Mr. MORRIS. So what we have here, Senator, without pursuing the thing, we have a concession that they will comply with respect to those two items. With respect to anything else that might come up, we will have to just go ahead on the thing.

Senator EASTLAND. That's all right. That is the way I understood the agreement.

Mr. MORRIS. That is not the way it was originally.

Senator EASTLAND. Maybe it is my fault. I don't know. I am not challenging anybody.

Mr. ANDERSEN. Senator, haven't I stated it fairly?

Senator EASTLAND. In order to have a meeting of the minds. That's all.

Mr. MORRIS. This, Mr. Andersen, as I just stated it now, is different from my understanding of the agreement upstairs.

Mr. ANDERSEN. Reasonable people can differ. I think that I've stated it fairly. Now, if I haven't stated it fairly, I stand—I can always be corrected—but I think I've stated the agreement fairly.

Mr. MORRIS. My understanding—

Mr. ANDERSEN. As a matter of fact, I think we're arguing about nothing. We are arguing about how many people can dance on the head of a pin.

Mr. MORRIS. No, we're not, Mr. Andersen.

Go ahead, Senator Welker.

Senator WELKER. I would suggest, to get away from the seeming misunderstanding on the part of certain of the Senators and counsel, that we issue a subpoena duces tecum for the two items that we are agreed upon. I am sure counsel will abide by that. And then if there are any other matters the committee desires to have brought forthwith, to have another subpoena issued. Quit this idea of trying to make agreements in violation of the subpoena.

Mr. MORRIS. Senator Welker, I might admit that the agreement as it now stands has the acknowledgment on the part of counsel of our authority with respect to the records and those two items. So we wouldn't have to go into that at all.

Now, with respect to the other items, the point is, it may well be that the committee would allow the situation to stand as it is now. But our only point is that it is not our understanding of the agreement that was made upstairs.

Senator WATKINS. In other words, we will now have—even taking your position, there is an understanding of a modified agreement, according to your view, but there is still an agreement.¹

¹ See the following:

The following statements were received by the subcommittee after its return to Washington in response to questions regarding use of funds for certain purposes by the ILWU and United Public Workers and was ordered into the record at a subcommittee meeting December 17, 1956:

BUSLOG & SYMONDS,
Honolulu, Hawaii, December 10, 1956.

Re Hawaiian Judiciary Subcommittee hearings

SENATE JUDICIARY COMMITTEE,

Senate Building, Washington, D. C.

(Attention: Robert Morris.)

DEAR SIR: Pursuant to your telephone conversation with George R. Andersen wherein he stated he was prepared to meet with you regarding the records agreed upon, and in which conversation you stated it would not be necessary to produce the physical records and that the purpose of the subcommittee would be served by an accountant's report setting forth what the books of ILWU Local 142 and the ILWU Memorial Association show with respect to expenditures made by either entity since the date set forth in the subpoenas regarding the local Smith Act trial and the 1956 Territorial election, enclosed is a report signed by the accountant. While the subpoena refers to funds of local 142 and the Memorial Association, there is included in the report money expended by the ILWU defense fund and the political action fund.

Also in accordance with our understanding, enclosed is an accountant's report, together with a statement from Henry B. Epstein, Territorial director of the UPW, with reference to funds expended by that organization relative to the two matters specified.

If you have any occasion to communicate with this office, we would appreciate your sending a copy to George R. Andersen, 240 Montgomery Street, San Francisco 4, Calif., and indicating the same on the original.

Very truly yours,

MYER C. SYMONDS.

HONOLULU, T. H., December 10, 1956.

Re Territory of Hawaii Subcommittee hearing.

SENATE JUDICIARY COMMITTEE,

Senate Building, Washington, D. C.

(Attention Robert Morris, Esq.)

DEAR SIR: At the request of Newton K. Miyagi, secretary-treasurer of Local 142, International Longshoremen's and Warehousemen's Union, and treasurer of ILWU Memorial Association, I attach hereto a schedule of accounts, the information of which was drawn from the books of accounts called the ILWU Defense Fund, showing moneys spent under the heading of "Jack Hall Case," covering period from January 1, 1953, to date.

The ILWU Defense Fund has been maintained as a separate accounting entity as are the funds of ILWU Local 142 and ILWU Memorial Association, and, to the best of my knowledge and belief, is the only fund among the three accounting entities mentioned which has to date reflected expenditure under the heading and description of "Jack Hall Case."

In answer to the question relating to expenditures made in the 1956 political campaign in Hawaii, the books of ILWU Local 142 and of ILWU Memorial Association reflect no account under the heading or description of political activities. There is a fund called Political Action Fund, which shows a total expenditure of \$14,635.04 therfrom.

Yours very truly,

KATSUTO NAGAUE,
Accountant and Auditor.

(Footnote continued on next page)

With that, I think we probably ought to close the colloquy and go on with the witnesses.

Senator EASTLAND. All right, call your witness.

Senator WATKINS. Call your witness.

Mr. MORRIS. Mr. Irving Fishman.

Senator, Mr. Chairman, Irving Fishman, customs official, is here today and has come at great sacrifice from Washington. He flew in here this morning, he has to be in San Francisco tomorrow, and therefore I ask that we interrupt the testimony of Mr. Rohrbough to put Mr. Fishman on immediately.

Senator WATKINS. You solemnly swear the testimony you are about to give in the matter pending before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FISHMAN. I do.

TESTIMONY OF IRVING FISHMAN

Mr. MORRIS. Mr. Fishman, will you give your name and address to the reporter?

Mr. FISHMAN. Irving Fishman.

Senator EASTLAND. Talk a little louder, please.

Schedule of accounts showing disbursements under heading of "Jack Hall Case" from ILWU Defense Fund

Accounts:	Amount
Legal fees and costs.....	\$86, 521. 90
Mailing and shipping.....	3, 599. 48
Office supplies.....	2, 103. 29
Rent.....	468. 00
Research and publicity.....	9, 902. 77
Taxes.....	114. 65
Telephone and wire.....	524. 91
Travel and subsistence.....	1, 049. 44
Wages.....	5, 685. 71
Total.....	109, 970. 15

HONOLULU, T. H., December 4, 1956.

To Whom It May Concern:

I am a public accountant and have been so engaged since January 15, 1945.

I was engaged on or about October 1954 by United Public Workers, a labor union, to examine the then existing records and to recommend an accounting system. Under date of October 25, 1954, I filed a report with the United Public Workers on this matter, together with the general books of accounts which were organized by me.

Since then, I have made 2 examinations of the books of accounts of the said union, upon request, 1 for period ended June 30, 1955, and another for period ended June 30, 1956, and have filed reports appertaining thereto.

On this date, I have been asked to furnish answers to two direct questions, namely:

(1) What money, if any, was contributed by the United Public Workers to any of the defendants in the so-called local Smith Act trial?

(2) What money, if any, was expended by the union on behalf of political candidates of any party during the last election in the Territory?

During the period covered by my examination of the books of accounts, the answer to both questions is None to the best of my knowledge and belief.

Yours very truly,

KATSUTO NAGAUE,
Accountant and Auditor.

UNITED PUBLIC WORKERS,
Honolulu, Hawaii, December 6, 1956.

To Whom It May Concern:

My name is Henry B. Epstein, and I am the Territorial Director of the United Public Workers. I have been requested to check the books of the United Public Workers since its inception for the purpose of answering two questions:

1. What money, if any, was contributed by the United Public Workers to any of the defendants in the Hawaii Smith Act trial?

2. What money, if any, was expended by the United Public Workers on behalf of political candidates of any party during the last election in the Territory?

I have carefully checked all the books and records of the United Public Workers since its inception as an independent union in March 1953. Based on the books and records of the union, the answer to both the questions is "None."

HENRY B. EPSTEIN.

Mr. FISHMAN. Irving Fishman. I live in the city of New York; I am deputy collector of customs at the port of New York, in charge of the program countrywide of the Bureau of Customs and the control of the importation of political propaganda.

Mr. MORRIS. How long have you held that position?

Mr. FISHMAN. For the last 5 years.

Mr. MORRIS. Are you acquainted with the flow of propaganda into the port of Honolulu?

Mr. FISHMAN. I have some information and, if the committee pleases, I should like to read a preliminary statement.

Mr. MORRIS. Before you do, Mr. Fishman, I wonder if you would just tell us to what extent you are competent to testify about the situation as it exists in Honolulu?

Mr. FISHMAN. I surveyed the situation here in Honolulu back in October of this year, and I have also conducted some inquiries at the exchange post offices in San Francisco and New York, dealing with the shipment of mail into the Honolulu area.

Mr. MORRIS. Proceed.

Mr. FISHMAN. I believe the members of this committee are familiar to some extent with the interest of our agency in the importation of political propaganda into the United States.

Senator EASTLAND. Is that propaganda that comes from the Soviet Union and the Iron Curtain countries to promote communism in the United States?

Mr. FISHMAN. That is right.

Senator EASTLAND. And in particular into this Territory?

Mr. FISHMAN. That is right. However, I would like to state for the record—

Senator JOHNSTON. At the present time you have a lot of it stacked up in New York, isn't that true?

Mr. FISHMAN. We have some that we are holding. However, I should like to state for the record that the Customs Bureau, a branch of the Treasury Department, in cooperation with the Post Office and Justice Departments, have the joint responsibility, under certain Federal statutes, to control the importation of political propaganda. Under the Tariff Act of 1930, subversive materials which advocate treason or insurrection against the United States are prohibited importations, and the sending of propaganda materials to the United States from the Soviet bloc countries by the mails or by means other than the mails, intended for dissemination in the United States, may likewise be in violation of the Foreign Agents Registration Act of 1930, as amended.

This position taken by the Customs and Post Office Departments is believed strengthened by the Attorney General's opinion of December 10, 1940, cited as volume 39, Opinions of the Attorney General, page 535, wherein it was held that the sending of propaganda materials to the United States by an unregistered agent of a foreign principal, in violation of the Foreign Agents Registration Act, amounts to the violation of a penal statute, as provided for in section 957 of title 18 of the United States Code.

Senator WATKINS. Pardon me for just a moment, Mr. Witness. If the reporter would move just a little bit, I can't see your face and it is difficult for me to follow you. If the reporter would just move

up this way a little bit, nearer the—no, I don't want him to be in front of anyone else either.

Senator JOHNSTON. That all right.

Senator WATKINS. All right. Proceed.

Mr. FISHMAN. And that under section 17 of title 18, such propaganda can be barred from the United States mails.

Mr. MORRIS. Now may I break in here, Mr. Fishman, a moment?

The violation—if material comes into the United States from a foreign principal, or unregistered agent of a foreign principal, who has violated the law? Who has violated the law; who has committed the crime?

Mr. FISHMAN. I was coming to that. The Attorney General has ruled that persons not within the United States, who use interstate or foreign commerce within the United States to disseminate political Communist propaganda, shall be regarded as acting within the United States, and therefore subject to this act.

In dealing with the problem of wide and increased distribution of political propaganda in this country, it is necessary that continued surveys be made to determine the extent to which such material is sent from abroad into particular areas of the country through the various customs ports of entry. In pursuing this course, a limited inquiry was made in October of this year into the shipment of Communist propaganda into the Hawaiian Islands. We learned that a good deal of mailed matter is sacked directly on the island from foreign countries and thus receives customs treatment here.

Our statistics show that during the past year—

Senator EASTLAND. What foreign countries?

Mr. FISHMAN. All of the Communist Soviet-bloc countries.

Our statistics show that during the past year the mail division of the customs service in Honolulu handled one million two hundred ninety-one thousand-some-odd parcels of mail. We have also broken down the figures by monthly statistics.

It was observed, for example, that airmail from China is shipped through Hong Kong directly to the islands by way of Canada, without touching the mainland. However, a good deal of mail from abroad destined to the islands is segregated at exchange post offices in New York and San Francisco, and perhaps in other areas. This material is then placed in the city mails for delivery here, so that close scrutiny by customs is not possible without special arrangements being made.

In this connection it should be kept in mind that literally millions of mail articles from abroad and from the Soviet-bloc countries pass through customs ports of entry during any given month.

The committee has requested specific information as to the volume of political propaganda destined to the islands. Unfortunately, exact statistics are not available, because of lack of time and the limited scope of the present inquiry. However, we found that in a 2-month period several hundred parcels of mail matter suspected of containing political propaganda was sent to this area and was cleared through two exchange post offices on the mainland. We can only estimate that equal quantities may have passed through other post offices which did not come under our study.

Here in Honolulu our agency also took note of the importation of similar propaganda material sent directly from abroad. Recent re-

ports to the Post Office Department suggested the withholding from the mails of 364 parcels containing 2,376 pieces of printed matter sent to addresses in this area since May of this year.

Senator EASTLAND. That was Communist propaganda?

Mr. FISHMAN. That is right. I have brought with me exhibits, samples of the type of propaganda material observed in the mail.

Senator EASTLAND. That is propaganda that comes to the Territory; is that right?

Mr. FISIMAN. That is right.

Senator JOHNSTON. And that's from Russia or satellite countries of Russia?

Mr. FISHMAN. That is right. Satellite countries.

Mr. MORRIS. Now, the 2,376 pieces of printed matter, Mr. Fishman, is that—that is an estimated figure or is that the actual figure?

Mr. FISIMAN. That's an accurate figure. But we have not completed our study.

Mr. MORRIS. Could you to the—

Senator EASTLAND. Wait a minute. Do you think it is much greater than that?

Mr. FISIMAN. I think so, because we examined—because of budgetary difficulties and so on, the customs service generally examines about 10 percent of the mail. Now, if you keep in mind that we handled here in Honolulu over a million packages last year and saw possibly 10 percent of that, we picked up three-hundred-some-odd packages, you might be able to—

Senator EASTLAND. You think you got—

Mr. FISHMAN. Multiply that by 10.

Senator EASTLAND. You think you got about three-hundred-odd packages. About 10 percent.

Mr. FISHMAN. That's about 10 percent of what actually came into the area.

Senator EASTLAND. Of Communist propaganda that came into Hawaii?

Mr. FISHMAN. Into this area.

Senator JOHNSTON. That's only through the post offices that you inspected, too; isn't it?

Mr. FISIMAN. In Honolulu.

Senator JOHNSTON. Yes.

Mr. FISIMAN. Of course, as I pointed out, some mail, especially printed matter, is segregated at the exchange post offices on the mainland and then the post office will deliver it here the same as if it came from Maine or Wisconsin or any place else. So that we never had an opportunity to observe that firsthand.

Senator EASTLAND. Let me ask you a question. Does the Honolulu Record get Communist propaganda from the Iron Curtain countries?

Mr. FISIMAN. Senator, you know the policy of our Department. We consider the names and addresses of the recipients of Communist propaganda as classified information and we will be glad to furnish that to the committee.

Senator EASTLAND. If we can get it, that is all right.

Mr. FISHMAN. We have observed some.

Senator EASTLAND. You have observed some. Now, we will get the names of the addresses in executive session.

Mr. FISHMAN. That's right.

Senator EASTLAND. All right.

Mr. FISHMAN. We are in the midst of preparing that right now.

Senator EASTLAND. You picked up a letter this morning from Hong Kong, didn't you?

Mr. FISHMAN. I was over at the post office this morning for a while and we found several parcels in this morning's mail, one of which was addressed—several of which were addressed to the Honolulu Record.

Senator EASTLAND. The Honolulu Record. Was that from the Communist Government in Hong Kong?

Mr. FISHMAN. From China.

Senator EASTLAND. From China.

Send them up, Mr. Arens, please.

Senator WATKINS. Senator Eastland, I thought we had better have them marked with some kind of identifying mark and receive them as exhibits at this time, so they won't get lost and we will know what we're talking about.

How many pieces do you have, Mr. Fishman?

Mr. FISHMAN. These have been selected at random. These were not taken out of this morning's mail. "China Reconstructs" for example, comes here in quantity. These are some individual publications. "Peoples Democracy, a New Form of Political Organization of Society." "Socialism and Religion."

Senator EASTLAND. What country is that from?

Mr. FISHMAN. These two are from the Soviet Union.

Senator EASTLAND. Soviet Union.

Mr. FISHMAN. Of course, a lot of this comes from China. "May Day Action by the Revolutionary Proletariat."

Mr. MORRIS. Mr. Fishman, isn't it a fact that Koji Arioshi has also received some of this material?

Mr. FISHMAN. That is correct. We have observed quantities of that.

Mr. MORRIS. And isn't it a fact that Jack Kimoto, of the Honolulu Record, also receives some of this material?

Mr. FISHMAN. I have seen some for him.

Mr. MORRIS. And doesn't the ILWU Reporter receive some mail?

Mr. FISHMAN. We have seen occasional shipments for them.

Mr. MORRIS. And doesn't the Honolulu Record receive such mail?

Mr. FISHMAN. I have mentioned that. Yes.

Mr. MORRIS. And the secretary of the ILWU.

Mr. FISHMAN. Some that I saw very recently.

Senator EASTLAND. What is his name?

Mr. MORRIS. Senator, I asked him that way because that's the way it was sent, to the secretary of the ILWU, and there was no name mentioned on the parcel I saw.

Mr. FISHMAN. That's right.

Mr. MORRIS. How about the manager of the Honolulu Record?

Mr. FISHMAN. The material that I have observed has been addressed to various officials at the newspaper.

Mr. MORRIS. And the ILWU library has received them, has it not?

Mr. FISHMAN. That's right.

Senator EASTLAND. Now, that was propaganda to promote the cause of communism, wasn't it?

Mr. FISHMAN. That's right.

Mr. MORRIS. Mr. Fishman, is it a crime simply to receive this material from abroad?

Mr. FISHMAN. I didn't get that question.

Mr. MORRIS. Is it a crime, is it a violation of the Foreign Agents Registration Act, simply to receive this in the mail?

Mr. FISHMAN. No.

Mr. MORRIS. If, however, the person receiving it in the mail disseminates it, is he violating the foreign registration act?

Mr. FISHMAN. The Foreign Agents Registration Act, if I understand it, and I'm not an expert on it, is the disclosure-type statute. Anyone who solicits or requests or subscribes to a Communist publication is entitled to receive it for his own use. If he disseminates the information, then he is required, under certain conditions, to register with the Department of Justice as an agent of a foreign government. Also, he is required to stamp the material which he subsequently issues with a stamp, disclosing the source of the information. The important thing that the Foreign Agents Registration Act requires is that the reader be made aware of the source of the information, so that he does not assume that it comes from any other source but a Soviet-bloc country.

Mr. MORRIS. Thank you. Now, Mr. Chairman——

Senator WATKINS. I would like to ask the witness, You described by title some of the material you exhibited. Now, have you given us the titles of all of it?

Mr. FISHMAN. No.

Senator WATKINS. Will you proceed and put the rest of it in the record with that method?

Mr. FISHMAN. The address to the Second All-Russian Congress of Communist Organizations of the Peoples of the East. Here is a booklet entitled "New Polish Publications." There are some in foreign languages, which I have no translation of right at the moment. Czechoslovak Trade Unions; Bulgaria Today; News—A Soviet Review of World Events; another copy of that; Hungarian Review; Economic and Social Facts, published by the economic and social department of the World Federation of Trade Unions; New Times; Peoples China; and Soviet Union.

I had merely intended to complete my statement by indicating that most of this propaganda is directed against the United States and points in most glowing terms to the living and working conditions in the Soviet-bloc countries as contrasted with the alleged miserable existence in the capitalistic countries.

Recent propaganda efforts have attempted to induce former nationals of the satellite countries, as well as displaced persons and immigrants, to return to the homeland. The United States has been accused in this propaganda of using displaced persons as spies and saboteurs for activities against the Soviet Union. We have considered such material as containing propaganda as defined in section 1 (j) of the Foreign Agents Registration Act, and have taken steps to control its distribution here. We shall continue our efforts in this connection within the limits of our operating budget.

Mr. MORRIS. Mr. Chairman——

Senator EASTLAND. Now, just a minute. That was 3,000 packages. You got 300 in a period of 2 months.

Mr. FISHMAN. That's right.

Senator EASTLAND. You checked 10 percent over a 2-month period. It is your best estimate that in a 2-month period over 3,000 packages came through this post office?

Mr. FISHMAN. That's right.

Senator EASTLAND. Just this one post office alone. Now, what came to other post offices in the Territory; you will get that information, but you do not have it at this time?

Mr. FISHMAN. That's right. I will furnish that to the committee as soon as we have completed our study.

Senator EASTLAND. It will be made available to the committee?

Mr. FISHMAN. That's correct.

Senator EASTLAND. Thank you.

Mr. MORRIS. And we're talking about parcels here, Mr. Fishman. For instance, 364 parcels contained 2,376 pieces.

Mr. FISHMAN. That's right.

Mr. MORRIS. By the same estimate, if it is going to be increased by 10 percent, it should be 23,760 pieces?

Mr. FISHMAN. Then, of course, we have also observed several hundred parcels at mainland post offices directed here, which are not in those figures.

Senator EASTLAND. About how many hundred would you estimate?

Mr. FISHMAN. Well, we know of five-hundred-some-odd parcels in 2 months. Probably 5,000 would be a closer estimate.

Senator EASTLAND. That's in addition. About how many pieces would those parcels contain?

Mr. FISHMAN. It is pretty hard to say. In 1 or 2 packages there were 50 or 60 individual copies.

Senator EASTLAND. Fifty or sixty individual copies.

Mr. FISHMAN. Some may have only 2 or 3 or a half dozen.

Senator EASTLAND. Yes.

Mr. FISHMAN. It is pretty difficult to estimate.

Senator EASTLAND. Is it your best estimate that, in the period of a year, these people receive many thousands of copies of Communist propaganda directed against the United States? Here in the Territory?

Mr. FISHMAN. I would assume so.

Senator EASTLAND. Yes.

Mr. MORRIS. Senator, right at this point, on this particular issue, we have taken the testimony today in executive session of Mr. Theodore Emanuel, who is the executive of the Territorial commission. Senator, I would like to read it into the record because it is directly in point. Testimony taken by Senator Welker, and I have taken it up with the chairman, the acting chairman and the chairman of the committee, Senator Butler and Senator Johnston, and I would like to read this into the record.

Senator WATKINS. You may do so.

Mr. MORRIS (reading) :

The subcommittee met at 2 p. m., room 16, Iolani Palace, Honolulu, T. H., Hon. Herman Welker presiding.

Present: Robert Morris, chief counsel; Benjamin Mandel, research director. After having been duly sworn by Senator Welker, the interrogation began.

Senator WELKER. You may state your name and residence.

Mr. EMANUEL. My name is Theodore Emanuel. I reside at 48-615 Halekou Place, Kaneohe, T. H.

Mr. MORRIS. Are you employed by the Territorial commission on subversion?

Mr. EMANUEL. I have been continuously employed by the Territorial commission on subversive activities since May 1950 and as executive since 1952.

Mr. MORRIS. Have you, furthermore, done any intelligence work for the Government?

Mr. EMANUEL. I have been engaged in intelligence work for the Federal and Territorial Governments most of the years since 1929, the majority of which work was performed in the Territory of Hawaii.

Mr. MORRIS. Have you made a detailed analysis of the Honolulu Record contents from 1948 to the summer of 1952, showing conformance with the line of the China Monthly Review?

Mr. EMANUEL. I have; as this is.

Mr. MORRIS. Senator Welker, may that go into the record at this point?

Senator WELKER. Yes.

Mr. MORRIS. Have you purchased an issue of the China Monthly Review here in Honolulu?

Mr. EMANUEL. Yes; I have purchased two issues of the China Monthly Review from the Corner Liquor Store. The July 1951 issue and the August 1951 issue.

Mr. MORRIS. When did you make these purchases?

Mr. EMANUEL. I purchased the August issue on September 20, 1951; I purchased the July issue in August 1951, the exact date not recalled. I purchased the copies from Wilfred Oka—

who was one of the witnesses here today.

Senator WELKER. No further questions.

Whereupon, at 2:10 the committee recessed.

Now, Senator, these are the two issues referred to in the testimony now in the record.

Mr. Fishman, that is directly a violation of the Foreign Agents Registration Act, is it not?

Mr. FISHMAN. The dissemination of propaganda material, without indicating the source, comes within the Foreign Agents Registration Act.

Senator EASTLAND. In other words, they have got to stamp it as Communist propaganda?

Mr. FISHMAN. So as to give the reader an opportunity to evaluate it.

Senator EASTLAND. As a matter of fact, from the volume of this mail, it is evident that it is received here for the purpose of dissemination, isn't it?

Mr. FISHMAN. That would appear to be.

Senator EASTLAND. Why, of course. And to be used against our country.

Mr. FISHMAN. That is right.

Mr. MORRIS. Senator, may I submit the two exhibits to Mr. Fishman and ask him if it is stamped as it should be stamped.

Mr. Arens, will you show this to Mr. Fishman, please?

Senator WATKINS. One of the clerks of the committee will exhibit to you these two copies just referred to in the statement by Mr. Morris, our counsel.

Examine them and tell us whether or not they are the ones.

Mr. FISHMAN. There is no stamp in the publications, as suggested or required by the Foreign Agents Registration Act.

Senator WATKINS. Those were the two exhibits that were handled in executive session?

Mr. FISHMAN. Yes. China Monthly Review.

Senator WATKINS. They will be made a part of the exhibits in this case, or in this hearing.

(The copies of the China Review above referred to were numbered "Exhibit No. 391 and 391-A" and were transmitted to the Department of Justice as hereafter directed.)

Senator EASTLAND. All right now. Mr. Chairman, I want to get the authority of this committee to transmit that material to the Department of Justice for proper legal action, in the record of our committee.

Senator WATKINS. Do you want to do it in executive session or right here?

Senator EASTLAND. I want to do it right now.

Senator WATKINS. The Chair will state to the committee that Senator Eastland, the chairman of this committee and of the parent committee, the Judiciary Committee of the United States Senate, requests authority of this committee to transmit to the Department of Justice the exhibit just referred to.

Is there any objection to such transmission?

Senator JOHNSTON. No objection.

Senator WATKINS. Senator Butler, Senator Welker.

Senator WELKER. No objection.

Senator BUTLER. No objection.

Senator WATKINS. Senator Johnston. Senator Eastland.

Senator EASTLAND. I vote "aye."

Senator WATKINS. And I vote "aye." You have that authority and you may so transmit these documents.

You may proceed with the examination.

Mr. MORRIS. Mr. Fishman, do you have any knowledge that the Honolulu Record is sent from Honolulu to any other places?

Mr. FISHMAN. That is a function, of course, which does not come within our jurisdiction, but I have, as you know, spent some time over in the post office here in Honolulu, and it has come to my attention that issues of the Honolulu Record have been sent to such countries as Czechoslovakia, China, India, Hong Kong, Shanghai.

Senator WATKINS. Were those single issues or was there some volume?

Mr. FISHMAN. The discovery of the information came from people who are handling the material. They weren't certain; they felt that several copies at least were contained in each article that was mailed. But we did not keep statistics because these mailings require the purchase of postage stamps and no record is made of how much of it is actually exported. This is entirely based on information obtained from official channels.

Mr. MORRIS. Does that violate any law you know of, Mr. Fishman?

Mr. FISHMAN. I may very well touch on the Foreign Agents Registration Act. That's a matter which I would prefer the Foreign Agents Registration Section of the Department of Justice to consider.

Senator WELKER. Mr. Chairman, may I ask a question?

Senator WATKINS. Senator Welker.

Senator WELKER. From the information you received from the agent handling the pieces of literature, were you informed that the stamp required by the foreign agents registration act had been placed thereon?

Mr. FISHMAN. I asked specifically. There was no stamp at all on any of the material mailed.

Senator WELKER. And in your opinion, that is a violation of the Foreign Agents Registration Act?

Mr. FISHMAN. As I say, it would be a personal thing; I am not an expert on the act. The Justice Department——

Senator WELKER. I am asking you for your opinion.

Mr. FISHMAN. I think so.

Mr. MORRIS. Senator, at this point, I think I would like to recall some past testimony before this subcommittee. We had a man testify before this committee who has been until February of this year one of the top Polish Communists. He was the propagandist for the Polish Government, and he was in charge of anti-American propaganda, and he testified, Senators, before the committee that the most effective propaganda used by the Polish Communist Government in their broadcasts to the Polish people was Communist propaganda imported from the United States, because it could be presented to the Polish people, not as Polish Communist propaganda, but as American propaganda, as American literary output, and in line with that he said that the publication of the United Electrical, Radio, Machine Workers of America and the Labor Research Association, in particular, were most effective for their own propagandizing purposes.

And for that reason, Senators, it is important, according to his testimony, that American Communist propaganda be turned over to foreign countries and be mailed to foreign countries.

Senator WATKINS. You have made your statement. Proceed.

Mr. MORRIS. Is there anything else now, Mr. Fishman, that you are prepared to tell us about here today?

Mr. FISHMAN. No. I plan to, as I have said, submit additional information to the committee as soon as it is completed. Right at this moment I have nothing else to report.

Senator WATKINS. The committee, of course, will be in session from time to time upon this particular inquiry. The books, I mean the records and files of the committee on this particular investigation will not be closed. So that additional information from time to time can be sought and obtained by the committee.

We appreciate very much you coming here and the statement you have rendered. And we will expect further information as you acquire it.

Mr. FISHMAN. Thank you very much.

Mr. MORRIS. I would like, Senator, to thank Mr. Fishman too, because he has come a long distance and with very short notice.

Senator WATKINS. You may call your next witness.

Mr. MORRIS. I think we will finish the interrogation of Mr. Rohrbough.

Senator WATKINS. Mr. Rohrbough will please come to the stand.

TESTIMONY OF EDWARD ROHREBOUGH—Resumed

Mr. MORRIS. Senator Watkins, during the last session you asked that we produce the statement required by the act of August 24, 1912, as amended by subsequent acts, showing the ownership, management, and

circulation of the Honolulu Record, published in Honolulu for the year ending October 1, 1955. And I have it here, Senator.

It indicates the editor is Koji Arioshi, who was 1 of the 7 defendants.

And I think, Senator, rather than read the whole thing, may it all go into the record?

It indicates that Edward Rohrbough is one of the holders of stock, as well as Mr. Murin, who preceded Mr. Rohrbough on the witness stand.

Senator WATKINS. I suggest that this will be received in the record, and I suggest the witness now be given an opportunity to refresh his recollection, and maybe he will be willing to testify when he knows he has already been making public statements, or at least statements have been made by this paper indicating that he is one of the owners. Now, he ought to be given the opportunity to explain that. If he isn't the person named, he ought to be able to say so.

(The witness consults with his counsel.)

Senator WATKINS. I think we ought to connect this now and give him an opportunity to take a look at the exhibit, if he wants to answer the questions, rather than claim the privilege of the fifth amendment.

I ask the witness to examine the copy here, and the material marked, that has now been placed in the record, the statement with respect to the ownership and management of the newspaper as required by the postal regulations and by law.

(The witness examined the documents.)

Senator WATKINS. The documents to which I refer are copies of the Honolulu Record.

Now, Mr. Rohrbough, you have examined—noted these exhibits, have you?

Mr. ROHRBOUGH. Yes, sir.

Senator WATKINS. Do you recognize the exhibits as copies of the Honolulu Record?

Mr. ROHRBOUGH. I refuse to answer that question on the grounds of the first and fifth amendments.

Senator WATKINS. Did you note that your name appears in that statement as one of the owners, stockholders?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. Same answer.

Senator WATKINS. Same answer.

The exhibits will be received in the record, and the witness will be directed to answer the question. I rule that the matter of immunity is not involved in this situation at the present time.

(The issue of the Honolulu Record referred to above was marked "Exhibit No. 392" and was placed in the subcommittee files.)

Mr. ROHRBOUGH. I refuse to answer on the same ground.

Senator EASTLAND. You understand that you will probably be cited for contempt of the United States Senate if you don't answer that question; don't you?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I still stand on the same constitutional grounds.

Senator WATKINS. The record is made. That's it. And it will be taken care of in due time. If the authorities who investigate this

matter think it constitutes ground for contempt, they will proceed. The record will stand as it is in any event.

Mr. MORRIS. Senator Watkins, I notice that this is the report for the 8th of October 1955.

Will you, Mr. Rohrbough, supply for the committee the 1956 statement and the 1954 statement? I am asking you now to literally produce the statements. That's all.

(The witness consults with his counsel.)

Mr. ROHRBOUGH. Same answer, on the fifth amendment.

Senator WATKINS. You refuse to reproduce—to produce the statement for the times called for by counsel for the committee?

Mr. ROHRBOUGH. On the grounds of the first and fifth amendments; yes.

Mr. MORRIS. Senator Watkins, I might point out that this is a statement required by the Territorial commission. And the information that we desire from this particular witness, even though we may get it possibly from other sources—we have not been able to get it thus far—is required by the committee at this time.

Senator WATKINS. I suggest that subpoenas be issued for the proper officials of the Record, and that we can get the identification from them. If it happens to be the witness who is before us, then we can proceed in a little different way.

Mr. MORRIS. Senator, we have here in our records a statement of the Honolulu Record Publishing Co., Ltd., statement of stockownership, at the close of business August 31, 1955, which indicates that there were 8,602 shares owned. According to this, 7,361 shares—7,386, the whole amount, were owned by Mr. Rohrbough, the witness on the stand here now.

Is that an accurate statement, Mr. Rohrbough?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I take the fifth amendment.

Mr. MORRIS. Are you the Edward Rohrbough whose name appears on that stock list?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that on the grounds of the first and fifth amendments.

Senator EASTLAND. If the statement that counsel made is not accurate, please tell us in which particular it is not accurate.

Mr. ROHRBOUGH. I will stand on the same constitutional ground.

Senator WATKINS. I suggest that other officials of this newspaper, and employees, until we get someone who is willing to testify, be brought in here and we get this matter cleared up. We should find out first of all if the witness now before us is the same person as named in the statement in the exhibits. I mean the statement with respect to ownership and management. Find out from them if he has any connection with this newspaper. Of course, he has claimed if he admits, or if he answers the question truthfully and honestly, I should put it that way, that he might incriminate himself. And he has said that, and that's the reason he is claiming the protection of the fifth amendment. But that doesn't preclude us from placing squarely in the record, from witnesses who are not unwilling to

testify, who the manager is, who is responsible for the publishing of that newspaper. In other words, we don't have to rely on this witness alone and we should subpoena the other people. And that will take a little time. And I suggest, and I think that was ordered this morning, and I hope that they did subpoena some of the other employees down there. Let's find out this great mysterious thing about this newspaper, what the answer is.

Proceed.

Mr. MORRIS. As a matter of fact, Mr. Rohrbough, the United Public Workers, the union, the United Public Workers owns some shares of stock in the Honolulu Record, does it not?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that on the same grounds.

Mr. MORRIS. Mr. Yugo Okubo is a stockholder, is he not? In fact, he owns 354 shares, does he not?

Mr. ROHRBOUGH. I refuse to answer that on the same grounds.

Mr. MORRIS. And after you, he is the second largest stockholder, is he not?

Mr. ROHRBOUGH. I didn't hear that.

Mr. MORRIS. And after you, Mr. Okubo, Yugo Okubo is the second largest stockholder?

Mr. ROHRBOUGH. I refuse to answer that, on the same grounds.

Mr. MORRIS. Senators, Mr. Okubo is one of the subsequent witnesses here today.

The ILWU is a bondholder, is it not, of the Honolulu Record?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that, on the same grounds.

Senator WATKINS. Do you know who the manager of the Honolulu Record is?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that—

Senator WATKINS. I asked you if you knew. I didn't ask you to tell us. Do you know?

Mr. ROHRBOUGH. I refuse to answer that on the grounds of the first and fifth amendments.

Senator EASTLAND. Now wait a minute. Did you say "the first amendment"?

Mr. ROHRBOUGH. The first and fifth amendments.

Senator EASTLAND. Oh, I see. First and fifth.

Senator WATKINS. That's the same type of question that was called to your attention this morning. I am not asking you to disclose what you know; I merely want the facts. I merely want to know if you do know. Naturally, the next question would be "All right, tell," but that would be a matter that you might claim would incriminate you. But what you know is in your own mind. I don't see how on earth you could be prosecuted or be put in jeopardy for that.

(The witness consults with his counsel.)

Mr. ROHRBOUGH. A little knowledge, sir, can be a very dangerous thing.

Senator WATKINS. What is that?

Mr. ROHRBOUGH. A little knowledge, sir, can be a very dangerous thing in these times. I refuse to answer on the grounds—on the same grounds.

Senator WATKINS. You are directed—you refuse to answer. You are directed now, for the purpose of this record, ordered and directed to answer the question that I asked you.

Do you know who the manager of this newspaper is?

Mr. ROHRBOUGH. I refuse to answer that on the grounds of the first and fifth amendments.

Senator WATKINS. All right; the record has been made.

Proceed.

Mr. MORRIS. A 2-minute recess, Senator, please, for the reporter.

Senator WATKINS. The committee will not actually be in recess. We will suspend the examination for 2 minutes. That doesn't mean that there should be disturbance in the room. Please keep your seats.

(A short break was taken in the proceedings.)

Senator WATKINS. The committee will be in order.

We will now resume the examination of the witness.

Mr. MORRIS. You have been the distributor, have you not, for the China Weekly Review and the China Monthly Review, you—the Honolulu Record, I mean. Excuse me.

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that on the grounds of the first and fifth amendments.

Mr. MORRIS. I would like to show you a subscription blank, which will be identified by Mr. Mandel, Senator. It purportedly comes from the September 1952 issue of the Review, purchased here in Honolulu, which indicates that the Honolulu Record, 811 Sheridan Street, Honolulu, T. H., is the distributor of the Review, as they say, "in foreign countries," in China. I would like to show that to the witness.

Will somebody take that up to him? Mr. Mandel, will you take that up, please?

(The document was handed to the witness.)

Mr. MORRIS. Pardon. Did you answer the question?

Mr. ROHRBOUGH. I saw it. I didn't know I was asked a question.

Mr. MORRIS. Oh. That subscription blank indicates that the Honolulu Record is the distributor of the China Monthly Review. Was that a fact?

Mr. ROHRBOUGH. I refuse to answer that question on the grounds of the first and fifth amendments.

Mr. MORRIS. Mr. Mandel, will you identify that as a document having come from the—as a result of our having served the subpoena on the Territorial commission?

Mr. MANDEL. This subscription blank comes from the files of the Territorial commission, whose records have been subpoenaed by the Senate Internal Security Subcommittee.

Senator WATKINS. And was that received in response to the subpoena?

Mr. MANDEL. Yes, sir.

Mr. MORRIS. May it go into the record at this point, Senator?

Senator WATKINS. The exhibit may be received into the record.

(The subscription blank referred to was marked "Exhibit No. 393" and is reproduced below:)

EXHIBIT 393

Mr. MORRIS. Senator, I would like to draw attention to the fact that much of the information and evidence that we have with respect to this subject, the China Monthly Review and the Honolulu Record, is all in that 3- and 4-page memorandum that we have previously put into the record, Senator.

Mr. Rohrbough, are you presently a Communist?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that, on the ground of the fifth amendment.

MR. MORRIS. Have you been a secret member of the executive board of the Communist Party in Honolulu?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that, on the ground of the fifth amendment.

Senator WATKINS. Have you been a secret member or otherwise of the board as mentioned by counsel?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that on the ground of the fifth amendment.

Mr. MORRIS. Have you been a consultant for the Committee for the Democratic Far Eastern Policy?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that on the grounds of the first and fifth amendments.

Mr. MORRIS. Were you elected as one of the delegates from the 18th precinct to the Democratic Party Convention in 1954?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that on the grounds of the first and fifth amendments.

Mr. MORRIS. Have you written for the publication PM?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that on the grounds of the first and fifth amendments.

Senator WATKINS. The objection with respect to the first amendment is overruled.

Mr. MORRIS. Senator, in the interest of brevity, may I just state that we have information and evidence that the witness here today has contributed to the Daily Peoples World, a Communist newspaper, New Masses, and Salute.

Is that an accurate statement, Mr. Rohrbough?

Mr. ROHRBOUGH. I think you mentioned three papers.

Mr. MORRIS. Yes. The Daily Peoples World.

Mr. ROHRBOUGH. And you mentioned another one.

Mr. MORRIS. New Masses and Salute.

Mr. ROHRBOUGH. How do you spell that—Salute?

Mr. MORRIS. S-a-l-u-t-e.

How about the first two, Mr. Rohrbough?

Mr. ROHRBOUGH. I will decline to answer the question on all three papers on the grounds of the first and fifth amendments.

Senator WATKINS. You understand the committee does not recognize the validity of any objection with respect to the first amendment. However, you have the right under the fifth amendment to claim immunity. Under proper questioning, and in this particular case, I think probably you have the right to claim the protection of the fifth amendment.

Mr. MORRIS. Under what circumstances did Gerald Tannebaum become a stockholder in the Honolulu Record Publishing Co.?

(The witness consults with his counsel.)

Mr. ROHRBOUGH. I refuse to answer that question on the ground it may tend to—on the grounds of the first and fifth amendments.

Mr. MORRIS. Senators, Senator Welker put into the record of the executive sessions this analysis of the Honolulu Record, done by the Territorial commission, backed by Mr. Theodore Emanuel, executive. May that go into the public record at this time, Senator?

Senator WATKINS. It may do so.

(The analysis referred to above was marked "Exhibit No. 394" and reads as follows:)

EXHIBIT No. 394

CHINA MONTHLY REVIEW

This publication is of particular interest because of the indictment of its publisher, John William Powell, in April 1956 for violation of the wartime sedition statute.

In various issues of the China Monthly Review published in Red China during the Korean war it named the Honolulu Record, 811 Sheridan Street, Honolulu, T. H. as one of the distributors of the Review in foreign countries.

The weekly Honolulu Record announced in its columns of March 15, 1951, that subscriptions to the China Monthly Review were being accepted by it.

Advertisements in the Honolulu Record on May 17 and September 20, 1951, and on March 6, 1952, offered the Red China publication for sale. One advertisement stated that the magazine could be purchased at the Corner Liquor Store and Magazine Shop, 1042 Bethel Street, Honolulu. This shop was then and still is operated by Wilfred M. Oka, a columnist for the Honolulu Record who has been identified as having been a member of the Communist Party. Copies of the China Monthly Review were in fact displayed and sold at Oka's shop.

A critical analysis of the content of the Honolulu Record during the period July 7, 1950, through July 27, 1953, indicates that its news items and editorial comment concerning the Korean war and Red China closely parallels that of the China Monthly Review.

The Federal indictment of Powell and two associate editors, who had returned to the United States after the China Monthly Review suspended publication at the end of the Korean war, charges that "they did conspire, combine, confederate, and agree together and with their unnamed coconspirators," in publishing and distributing the Review:

"(a) willfully to make and convey false reports and false statements * * * in issues of the said 'China Monthly Review' * * * with intent to interfere with the operation and success of the military and naval forces of the United States and to promote the success of its enemies, namely, the said North Korean Communists and Chinese Communists", and

"(b) willfully to cause and to attempt to cause insubordination, disloyalty, mutiny and refusal of duty in the military and naval forces of the United States", and

"(c) willfully to obstruct the recruiting and enlistment service of the United States" and "to induce persons who would be available and eligible for recruiting and enlistment in the military and naval forces of the United States, to fail and refuse to enlist for service therein, and to induce persons who would be liable for military and naval service under the laws of the United States to refuse to submit to registration and selection for such service".

Available information indicates that Koji Ariyoshi, editor of the Honolulu Record and one of the "Hawaii 7" convicted for violation of the Smith Act, and Edward Rohrbough, feature writer of the Honolulu Record and secretary-treasurer of its publishing company, were in the China theater during 1944-46. Ariyoshi was operating as a member of the United States Army observation unit in Yenan, while Rohrbough was attached to the United States Office of War Information and operated in the Chungking area. John W. Powell was in the Chungking area during the period June 16, 1943, through December 1, 1945. Other individuals who have been identified in hearings of the Internal Security Subcommittee who were in the Chungking area at the same time are Gerald Tannebaum, who was attached to the United States Army Information and Education Division, and William H. Hinton, with the United States Office of War Information.

In the latter part of 1945, Rohrbough left the O. W. I. in Shanghai, and remained in China to cover the civil war. The masthead of the "China Weekly Review" (forerunner of the "China Monthly Review"), dated April 20, 1946, contains the names of the since deceased J. B. Powell (father of John W. Powell), as editor and publisher, and also lists John W. Powell and Edward Rohrbough. Articles under the byline of Edward Rohrbough appeared in the March 23, April 6, April 20, and May 18, 1946, issues of the China Weekly Review.

Gerald Tannebaum was separated from the United States Army in Shanghai on May 19, 1946, and remained in China. He later became executive director of the China Welfare Fund, under the Red regime, and secretary to Madame Sun Yat-Sen, vice chairman of the present Communist Government of China. Tanne-

baum was instrumental in placing Joan Hinton, an atomic scientist (formerly at the University of Chicago and Los Alamos), in a position in Red China.

When a corporation was formed in Hawaii in 1948 to publish the Honolulu Record, Tannebaum was listed as an initial stockholder. The corporation's subsequent sworn statements of ownership have continued to list Tannebaum, at a Shanghai address, as a stockholder.

With respect to the activities of William H. Hinton in Soviet China, this subcommittee has made an extensive analysis of his experiences there. The results of this analysis have been incorporated into a speech delivered by our chairman on the Senate floor on May 10, of this year. Senator Eastland entitled his speech "The Autobiography of a Traitor."

Further inquiry would appear to be in order with respect to the circulation of the China Monthly Review in Hawaii during the Korean war to determine whether Edward Rohrbough, Wilfred M. Oka and others may have violated the wartime sedition statute or other Federal law.

Mr. MORRIS. Senator, Mr. Mandel has about 7 or 8 documents that I would like to enter into the public record at this time. If he identifies them properly, will you accept them in the record, Mr. Chairman? They bear on this particular subject.

Senator WATKINS. Are you going to read them, or at least the titles of them?

Mr. MANDEL. Yes, sir.

Senator WATKINS. You may do so.

Mr. MANDEL. An article by Edward Rohrbough entitled "Shantung badly in need of medical aid in spite of Communist efforts," the China Weekly Review, March 23, 1946. "Currency battle in Communist-held areas during war recounted," by Edward Rohrbough, China Weekly Review, April 6, 1946. "General recalls long war in northeast. Opposes one party Kuomintang rule," by Edward Rohrbough, China Weekly Review, April 20, 1946. "Communist troops, unlike American GI's, strongly averse to demobilization," by Edward Rohrbough, China Weekly Review, May 18, 1946. Table of contents of the "China Weekly Review," April 20, 1946. "The Far East Spotlight," official organ for the Committee for a Democratic Far Eastern Policy, which has been cited as subversive by the Attorney General, shows Edward Rohrbough as a consultant of the committee, together with Koji Arioshi.

(The articles listed above, together with the table of contents of the two publications were marked "Exhibits 395 to 395-E.")

EXHIBIT No. 395

[The China Weekly Review, March 23, 1946, p. 72]

SHANTUNG BADLY IN NEED OF MEDICAL AID IN SPITE OF COMMUNIST EFFORTS

(By Edward Rohrbough)

Fifteen million people of the southern half of Shantung Province have only three hospitals, but they're not hospitals like anything Americans know. Operations are performed at the hospital, but there is never housing space for patients, so they are farmed out into private homes where doctors and nurses visit them periodically.

Those are the findings of Drs. Han Li-min and Wang Shiao-fang, of CNRRA and Dr. Herbert K. Abrams, of UNRRA, who are now in this capital of the provincial government of the liberated area of Shantung studying health conditions with a view toward implementing the relief work of their organizations in the area.

The type of village hospital the doctors have found is an outgrowth of wartime conditions in the liberated area. The government, the army, the doctors, and the people never knew when a Jap mopping-up campaign might be directed their way,

so they could not establish permanent centers of any sort, not even for sick and wounded. Doctors and patients had to be ready to move on at a moment's notice, and they had to expect that they might even be surprised so that camouflage would be their only protection. Nowhere did the Japs wage more brutal warfare against the civilian populations than in the liberated area. So if the Japs did come too fast, every effort was made to conceal the evidences of the hospital's existence and the patients just hoped the Japs would remain ignorant of the presence of an anti-Jap organization under their noses.

The three hospitals now in operation are the Provincial Hospital at Lin-I, another government hospital at Chu Hsien, near the Tsingtao-Tsinan Railroad, and the new 4th Army Hospital at Wangchiao about 20 li west of Lan-I. After visiting the Provincial and the New 4th Army Hospitals, the doctors say both are primitive and poorly supplied with medicines. There are no sulfa drugs and penicillin is something the doctors have heard about. Operating rooms are equipped with a few old surgical instruments and the Provincial Hospital has a fluoroscope that was captured from the Japs.

Capable doctors are even scarcer in this liberated area than facilities, the relief doctors say, though the New 4th Army's medical program here is headed by Dr. Tsui Yi-tien, a graduate of Mukden University and a veteran of Chinese Red Cross work with the New 4th when it was part of the Chinese National Army. His staff consists of seven graduate doctors and several nurses. The Provincial Hospital is headed by a man whose medical studies were never completed because of the war and the hospital has no graduate doctors for there are none in Lin-I though the population of the city is 40,000. It does have 5 trained nurses and 1 graduate pharmacist, all of whom were educated at Chi-Loo University.

In spite of inadequacies, the hospitals do what they can toward fighting disease in their surrounding areas. The New 4th Army Hospital is primarily for the troops, but it treats everyone who needs medical care as well as it can. It has 300 patients scattered among four villages where they are housed, according to the custom, in homes of friendly peasants.

The Provincial Hospital has a "mobile" medical unit of five persons, trained in simple remedies and first aid, who travel to surrounding villages on bicycles and mules.

The medical authorities are taking steps to educate as many medical workers as possible. The new fourth Army operates a military medical school in Lin-I with some 60 students who will receive 3 years of medical training. Already the school has trained 1,500 public-health workers and 100 students in the villages in a 4-month course consisting of first aid, sanitation, and elementary medical care. In the Provincial Hospital, 20 boys and girls are learning first aid and simple hospital procedure. Health education is one of the most important courses in the primary and middle schools and the public-health authorities plan to bring 50 rural students to Lin-I shortly to begin a 1-year course in public health. The Communist Party has issued a directive to mass workers in the rural sections to establish 2-month courses in public health, and in Lin-I a cooperative drugstore will be established soon.

But the relief doctors agree that all these efforts are quite inadequate for the control of the major medical problems of the area which are malnutrition tuberculosis, kala-azar, malaria, and other infectious diseases. Kala-azar, caused by a protozoan germ called Leishmania and spread by the sandfly, claims a 20-percent or greater mortality. The death rate from tuberculosis is very high though no figures are available. Tuberculosis of the bones and joints, as well as of the lungs, is common.

Fifty percent of the newborn infants die and one of the common causes of the death of infants is tetanus, due to lack of proper aseptic care during child-birth, but no vaccines are available to the people.

This area has always been deficient in medical skill and facilities, the doctors say, as in prewar days there was only one hospital in the area, that one having been operated by the Presbyterian mission at Lin-I. Eight years of war have intensified deficiencies in spite of the efforts of the Communist government.

CNRRA, with the aid of UNRRA, hopes to assist in the rehabilitation of hospitals and to establish some where there have been none before. Modern medicines will be imported in greater quantities when the plans are complete. The first CNRRA convoy of supplies to Lin-I, which brought the doctors, included in its cargo some 3 tons of medical supplies and a quantity of powdered milk which will be distributed to the hospitals now in operation.

EXHIBIT No. 395-A

[The China Weekly Review, April 6, 1946, p. 115]

CURRENCY BATTLE IN COMMUNIST-HELD AREAS DURING WAR RECOUNTED

(By Edward Rohrbough)

LIN-TI, SHANTUNG.—When the Chinese coalition government is finally assured, there will be no currency war between anti-Japanese currency issued by the Chinese Communists and the Chinese National currency of the Central Government. That is the opinion of Shieh Mu-chiao, head of the economic department of the Shantung provincial government of the liberated area.

Shieh, who became an expert in economic warfare through years of experience at holding back the tide of Wang Ching-wei paper into Shantung and at building the strength of the local currency, thinks both currencies used now in China must be redeemed by a new one, to be determined by the coalition government, which will have gold or silver as a basis and which will remove the economic problems created by China's numerous inflationary crises. When that new currency has been established, the Communists will no longer back their money with cotton and cereals as in the past and the vast quantities of Central Government paper will be reduced to a stable proportion, Shieh says.

FLOOD OF CAPTURED CNC

The economists of this area fought the currency war against the Japs perhaps even more successfully than they fought the war of the battlefields. Shieh, who has had an important part in that warfare, knows the story intimately.

The Communists had begun to print anti-Japanese currency in 1941, backing the money with stores of cotton and cereals, but it was not until 1943 that the need for pushing that currency became imperative. It was then that the Japs began sending large quantities of captured CNC paper into the area to buy up materials, leaving the people with shortages of raw materials and lots of worthless paper.

Shieh's figures, based on the index figure of 100 indicating the worthlessness of that paper, follow:

Chinese national currency

1936-----	100
1942-----	964
1943-----	4,707
1944-----	28,018

The Communists tried many methods of fixing prices, but all failed as the Japs increased their offers. So the Communists began to take more extreme steps and those were eventually successful. First, they conducted a wide-seale propaganda campaign encouraging people to take CNC back into Jap-occupied areas to buy materials for importation back into the liberated area. Next, they prohibited the circulation of CNC and cracked down on black markets and in 3 months they had reduced the inflationary prices to one-half of what they had been in July 1943. Their own currency had been exchanged for CNC at 1 for 1, but now it began to be the only legal tender.

But the lowering of prices was too rapid and the local industries suffered and the economists say they would have to stabilize prices by economic methods. They decided upon three principles. First, expenditures by the government must not depend upon paper issues with no backing. Second, so far as possible, government expenditures must be used as capital to further production. Third, one-half the issue must be used for buying reserves of cotton and cereals for stabilizing the currency.

PUPPET MONEY NEW FACTOR

By following those principles, they felt they would be able to guarantee their money, and to maintain a ratio of superiority over CNC. By increasing production, they increased the demand for anti-Jap currency and, by controlling several important items, notably salt and peanut oil, they further increased the demand for their money inasmuch as CNC was prohibited. Puppet money was beginning to be a factor and the Communists applied the same principles against it.

A quick change in the currency ratios indicated their success. In the summer of 1943, anti-Jap money had been 1 for 1 with CNC. By winter it was 1 for 5.

Anti-Jap money had been 8 for 1 with puppet money but by winter it was down to 1½ for 1.

The change sucked in a lot of speculators who thought anti-Jap money was not here to stay.

PRICES CONTROLLED

Shieh says this first victory taught the Communists the importance of control of raw materials in price fixing. When prices got too high, the Communists sold their cotton and grain low and brought them down. When prices were too low, the Communists withheld their materials and prices came up.

That victory was only the beginning and Shieh's figures comparing subsequent ratios of anti-Jap money with puppet currency show those that followed.

	Anti-Jap money	Wang Ching- wei money
1943		
1944—January	1	8
June	1	1.5
December	1	1.1
1945—January	.16	1
August	.15	1
	.03	1

After the Jap surrender no price at all was quoted by Communists.

CRB DEPRECIATION SHOWN

Shieh's figures showing proportionate inflation are:

	Anti-Jap money	Wang Ching- wei money
August 1943		
January 1944	160 100	4,570 100

Other factors beside the direct currency war affected inflation of both Communist and puppet currencies of course. But though Shieh didn't say so directly, his point seems to be that CNC generally proved to be much less stable than Communist money and even less stable than puppet money until the defeat of Japan. He hasn't any figures on CNC inflation during the latter years of the war because Shantung was too far distant from the Central Government area for the existence of any kind of black market. once the Japs quit trying to push their captured money into the area.

After the Jap surrender, Shieh says both Communist and Kuomintang groups in Shantung saw that puppet money would disappear and both strove to replace the Wang Ching-wei money with their own, but Ho Su-yuan, the Kuomintang governor at Tsinan, took an unexpected step in redeeming puppet money at 1 for 1 with CNC and by selling confiscated Jap stores at low prices. The Japs were selling stores that hadn't been confiscated, Shieh says, in an effort to get back as much puppet money as possible so they won't have to redeem it when reparations are due. Whatever the object of Hu's manipulations, Shieh says they had the obvious effect of maintaining the puppet government after the surrender and of assisting Japan to evade part of her future responsibility for wartime exploitation of China.

SYSTEM DANGEROUS

Faced with this situation, the Communists went back to their old practice of pushing puppet money back into the Kuomintang areas and bringing out purchased materials. Shieh says that though CNC got a wider circulation, Ho's policy helped the Communists to get rid of all the remaining puppet money still floating around their area. His figures indicate the sum was considerable for he says the population of 10 million of the area had an average of \$5,000 apiece so that \$50 billion in puppet dollars went into Kuomintang areas to buy commodities at an even rate of exchange with CNC.

Shieh thinks the currency war will be of only historic interest in China once a secure peace and a coalition government have been established, but he does not recommend the adoption of raw materials as backing for the new currency

which is to serve all China. He says that such an economy would be dangerous in any other sort of government than the one that exists here for it would be too easy for powerful capitalists to corner all the raw materials and control the currency and the country at the expense of the people.

EXHIBIT NO. 395-B

[The China Weekly Review, April 20, 1946, p. 163]

GENERAL RECALLS LONG WAR IN NORTHEAST, OPPOSES ONE-PARTY KUOMINTANG RULE

(By Edward Rohrbough)

LIN-I, SHANTUNG.—"Do you think the right of governing Manchuria should be taken over by you who gave Manchuria up?"

That's the question Gen. Chou Pao-chung would like to ask those Kuomintang luminaries who are prepared to rush troops and officials into Manchuria to take over government and administration as soon as the Soviet troops move out. General Chou, it would seem, has right to ask the question. He has led the Anti-Japanese Army of northeast Manchuria through 14 years of war. In an interview with a reporter of the New China News Agency, General Chou has much to say of the days in the early thirties when Manchurian patriots got frightened reprimands rather than help from the Central Government in their efforts to fight the Japanese in their country. He recalls that people got tossed into jail in those days for singing songs about marching to Manchuria, and he remembers that the Central Government once was quite willing to let the Japs keep Manchuria so long as they did not invade the rest of China.

ONE-PARTY RULE OPPOSED

He is not bitter. On the contrary, he thinks Central Government officials and Central Government troops should come to Manchuria to help the people reconstruct the country and form a democratic government. But he thinks the Manchurian people who have fought the Japs should have an important voice in the selection of those officials and he thinks the officials must not be merely representatives of the Kuomintang Party. If they were all Kuomintang men, General Chou is afraid the Manchurian people would get the idea someone was trying to put them under a one-party dictatorship and he says the people have had enough of dictatorships in the past 14 years to last them a long time.

General Chou believes he knows the desires of the Manchurian people pretty well, for he says they have established a duly elected representative local government and that they voice their opinions freely.

LONG STRUGGLE RECALLED

In his interview, General Chou tells for the first time the story of the struggle the Manchurian people carried on against the Japs during the entire period of their occupation. Opposition never cease, he says, though difficulties often seemed insuperable and he gives much credit to the 8th Route Army which, he says, sent such help as it could and which continued to fight in north China, next door to Manchuria, after the armies of the Central Government had been driven far up the Yangtze.

The first of 3 stages of opposition to the Japs began September 18, 1931, when the Japs invaded Manchuria. At that time, the Chinese Communist Party, of which Chou was a member, opposed the Quomintang policy of appeasing Japan and organized all forces that were willing to fight. The organization helped the old cavalry general, Ma Chan-shan, and others with money and men, but the movement was brief because Japanese agents and Kuomintang appeasers sowed dissension effectively and it fell apart before strong military attacks.

GUERRILLAS ORGANIZED

Action was reduced to small guerrilla operations until January 26, 1933, when Communist leaders were encouraged by the central committee to try organizing again to make a united front of all who opposed Japanese imperialism. By

that time the taste of Henry Pu Yi's government had become very sour in the mouths of the people and organization progressed rapidly. Soon bases were established at Pa Shih, Chu Ho, Jao Ho, Ring Tung, and Tang Yuan and General Chou, the leader, estimates his strength of that period at 200,000.

EXHIBIT No. 395-C

[The China Weekly Review, May 18, 1946, p. 251]

COMMUNIST TROOPS, UNLIKE AMERICAN GI'S, STRONGLY AVERSE TO DEMOBILIZATION

(By Edward Rohrbough)

There are plenty of opposites in China to American usage. Books read from back to front, white is a color of mourning—and the soldiers of the new 4th and 8th route Communist armies don't want to go home. At Lin-I, in the Shantung liberated area, I talked not long ago with a Comrade Chen, one of the young men who has the job of telling the Communist soldiers how military reorganization is to be handled, and he says their feeling about demobilization is quite different from that of American GI's. They'd rather stay in the army.

First of all, many of the Communist soldiers enjoy a much better life in the army than they had as coolies, peasants, and tenant farmers. Second, many come from homes in parts of China now controlled by the Central Government, and they are afraid they may be victims of discrimination when they return. Third, many have grown up in the army and they know only the army life, so they view the prospect of indoctrination for civilian life with more timidity than they ever showed before the Japs.

WOUNDED VETS A PROBLEM

Chen says the problem of rehabilitating wounded and crippled soldiers is giving the authorities difficulty because they are not able to support themselves entirely and because few of the marriageable women of the liberated area find them attractive. The authorities are trying to fulfill the function of a lonely hearts club, but there are difficulties.

Detailed instructions for mustering the men out of the armies have not yet been made public, but Chen thinks each man will get about \$3,000 anti-Japanese currency (equivalent of CNC \$30,000), which should keep him for 3 months, during which time the authorities hope he will find a job. He will also get a suit of civvies.

Three classes of soldiers will get priorities in the discharges, though it's doubtful if "priorities" is the term they'd use to describe their situation. They are: (1) inefficient soldiers, (2) wounded and crippled men, and (3) soldiers of the people's army. These last are somewhat like militia in that they never go far from home, but they're more like guerrillas because most of them don't wear uniforms and, when the enemy gets too tough, revert to civilian status, at least in appearances, until the time comes for more favorable action.

PEOPLE'S ARMY VAST

The people's army is everywhere in the liberated areas and includes men, women, and children. It is so large no authority can give you exact figures as to its strength, and those who have fought against it have found it very, very effective.

Because the soldiers of the people's army remain at home, they have first crack at all the good jobs, so the authorities plan to discharge regular troops first so that everyone gets something like an even break.

All soldiers will turn in their weapons for storage, though some soldiers of the people's army will be allowed to keep the old fowling pieces and ancient muskets with which they now guard the highways. Most of such weapons belonged to such soldiers personally anyhow.

Although those soldiers to be retained in the armies are those who have proved their skill and efficiency, the authorities are having to do a little explaining in their direction. They are told they will now have ranks and they don't like it. Heretofore, they were always just "comrade" and so was everyone also and they don't fancy the idea of being called sergeant or captain, or what-

ever. Also, those who are members of the Communist Party don't take well to the news that henceforth they cannot engage in any kind of political activity. Chen says one soldier wept when he heard the news and a company commander was so displeased he refused to attend the next discussion meeting. Even soldiers who are not Communists don't like that rule, Chen says, because they're afraid the abolition of the party from the army means democracy among the troops will also disappear.

EDUCATION PLANNED

All of this means there must be a lot of education for those soldiers who remain in the army, of course, and the authorities are already making plans. They expect the first emphasis of such education to be on technical military training. Next will come cultural education. "Cultural education" is what they call it, but actually they mean elementary, or even primary education, as Americans would see it. Such education has been part of the Communist military program for a long time and 2 hours of a soldier's day are supposed to be devoted to study.

During the war the troops were often too busy to get 2 hours of orthodox study everyday, so the instructors and the propaganda department devised a couple of aids to learning that were probably something entirely new in the history of warfare. Realizing that men had little to think about during long marches, the instructors took to pasting paper characters on the backs of the soldiers.

EXHIBIT No. 395-D

[The China Weekly Review, April 20, 1946, p. 155]

THE CHINA WEEKLY REVIEW

J. B. Powell, *Editor and Publisher*

(In the United States, Address: 35 Fifth Avenue, New York, N. Y.)

JOHN W. POWELL

WALTER H. WIENER, *Financial Editor*

EDWARD ROHRBOUGH

F. K. СПАО, *Business Manager*

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EXHIBIT NO. 395-E

FAR EAST SPOTLIGHT

A monthly report on United States policy and internal events in China, Japan, Korea, the Philippines, southeast Asia, and India

MARCH 1949

Editor: Elsie Cholmeley

Israel Epstein

Editorial Committee:

Shuji Fujii

Bernard Seeman

Harrison Forman

Elizabeth Selsbee

Kumar Goshal

Ilona Ralf Sues

Gerhard Hagelberg

Fred Zeserson

Philip Jaffe

Consultants:

Hon. Michael Lindsay

Koji Ariyoshi

Edward Rohrbough

Charles Bidien

Gunther Stein

T. A. Bisson

Howard Willard

Hugh Deane

Richard Yaffe

Publishers: Committee for a Democratic Far Eastern Policy, 111 West 42d Street, New York, N. Y.

Subscription: \$2 a year in the United States and Canada. \$3 a year abroad; single copies 20 cents.

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Elections Mark Japan Change, by Hugh Deane-----	6
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OFFICERS OF THE COMMITTEE FOR A DEMOCRATIC FAR EASTERN POLICY

Maud Russell, executive director

Philip O. Keeney, treasurer

Executive committee.—May Bagwell, Hugh Bryson, Abraham Chapman, Rev. John Darr, Jr., Morris Davis, Hugh DeLacy, James Durkin, Frederick V. Field, Welthy Honsigner Fisher, Talitha Gerlach, Ira Gallobin, Charlotte Honig, C. E. Johansen, Rita Judd, Rev. J. Spencer Kennard, Dr. Catherine Lealtad, Paul Robeson, Nathan Rock, Arthur Schutze, Edgar Snow, Chu Tong, Jeanette Turner, Jeffry Van Cleef, Susan Warren.

The editor will consider manuscripts submitted, but assumes no responsibility regarding them.

Mr. MANDEL. Now from the files of the Territorial Commission we have subpoenaed these documents. "Statement of ownership of the Honolulu Record Publishing Co., Ltd., dated at the close of business on August 31, 1954, with a comparative statement of income and surplus." Then a statement of stock ownership at the close of business on August 31, 1955, which is signed by Koji Ariyoshi, dated December 23, 1955.

(The documents referred to above were marked "Exhibits No. 396 and No. 396-A" and are reproduced on the following pages.)

File Number 217

ANNUAL CORPORATION EXHIBIT

OF

Honolulu Record Publishing Company, Limited

311 Sheridan Street, Honolulu, Hawaii

(Mailing Address)

For the Year Ended August 31, 1954

Date of Incorporation	
Authorized Capital:	
Class	Shares
Common	<u>10,000</u>
Par Value	<u>\$ 5.00</u>
Par Total	<u>\$ 50,000.00</u>
Paid In Capital:	
Class	Shares
Common	<u>8339</u>
Par Value	<u>\$3.39</u>
Amount	<u>\$41,795.00</u>
Filing fee of \$10.00 paid in.	

SAKAE TAKAMASHI
Treasurer of the Territory of Hawaii

Form approved on October 20, 1952.

ORIN E. ONG
Governor of the Territory of Hawaii

Form prescribed;

Nature of corporate business:

**Officers and directors as of
Office Held**

Names on Seal

Residence Address:

Pres.
Vice-Pres.
Secy-Treas.

Koji Ariyoshi
R. J. Baker
Edward Rohrbough

909 B-3 Lukepans
1911 Kalakaua Ave.
1127-B Aloha St.

References

Koti Ariyoshi

same above

R. J. Baker

ABOVE above

Edward Bohrbaugh

same above

Yusaku Ogubo

1266 Matlock Ave.

Emilio C. Yadao

3802 Paki Ave.

Shizuko Wakida

2241 Makanaani Dr.

DECLARATION

I declare, under the penalties set forth in Section 8348, Revised Laws of Hawaii, 1945, as amended, that this exhibit, including any accompanying schedules or statements, has been examined by me, and to the best of my knowledge and belief is a true, correct, and complete exhibit, made in good faith, for the period stated.

KV 9:04
(Signature of person at firm preparing this exhibit)

[Signature]
Signature of authorized corporate officer

Date July 1st Officer held President

SPECIAL INSTRUCTIONS

All of the information requested in this exhibit must be furnished. Failure to do so will make this exhibit not acceptable. To file this exhibit on other than a calendar year basis, permission must first be obtained from the Treasurer of the Territory of Hawaii. This exhibit must be filed, and the filing fee of \$10.00 paid to the Treasurer within NINETY DAYS immediately following the close of the year basis adopted. Failure to file will subject the corporation to a maximum penalty of \$100.00 for every thirty days continuance, and if continued for a period of two years will further subject the corporation to dissolution by the Treasurer.

ANNUAL CORPORATION EXHIBIT OF

COMPARATIVE GENERAL BALANCE SHEET

ITEMS	Beginning of Period Detail	Total	End of Period Detail	Total
ASSETS				
Current				
Cash on hand and in bank		288 15		102 96
Accounts receivable				
Less reserve for bad debts				
Notes receivable		267 34		26 40
Inventories				
Finished goods				
Raw materials and supplies				
Merchandise in transit				
 Investments				
Stocks—Local				
—Mainland				
Bonds—U. S. government				
—State, municipal				
—All other				
Fixed				
Land				
Leasehold				
Buildings				
Machinery and equipment	10,200 .90			11,850 .90
Furniture and fixtures				
Delivery equipment				
 Total	10,200 .90			11,850 .90
Less reserve for depreciation	5,282 .96			4,733 .81
Prepaid expenses		6,917 .94		7,062 .09
Unexpired insurance				
Interest				
 Other assets				
Capital stock subscription		33,795 .00		33,795 .00
Organization Expenses		352 .75		352 .75
 Total assets		41,621 .18		41,339 .20
LIABILITIES AND CAPITAL				
Current				
Accounts payable				4 .93
Notes payable				98 .00
Accrued expenses				
Payroll		3,595 .40		3,214 .79
Interest				
Income taxes		109 .76		179 .59
Other taxes		492 .00		574 .94
 Fixed				
Mortgage payable				
Bonds payable				
Deferred credits				
 Capital				
Preferred stock issued				
Common stock issued	41,795 .00			41,795 .000
Surplus reserves				
 * Capital surplus (Donated Surplus)	185 .00			185 .00
Earned surplus (or deficit)	(6,155 .98)			(6,360 .08)
Total	35,824 .02			37,619 .92
 Less treasury stock at cost—Preferred				
—Common	353 .00	35,471 .02	353 .00	37,266 .92
 Total liabilities and capital		41,621 .18		41,339 .20
 * Donated Surplus in Treasury (Without Cost)	\$185.00			\$185.00

VOTING POWERS AND STOCKHOLDERS

- (a) Does each share of stock have the right to vote? Yes _____ If not, explain voting rights:
- (b) Has any class of stock or securities any special privileges in the election of directors, trustees, or other management personnel, or in the determination of any corporate action? No _____ If so, give details:
- (c) State the total voting power of all stockholders as of the date of this report 8,266
- (d) State the total number of stockholders as of the date of this report 53
- (e) In the space below, or on sheets attached thereto and in accordance with the column headings indicated, list all stockholders by each class of stock. If the stock is held by a Trustee, make a full disclosure of the names, addresses and shares of the equitable owners. If the stock is without par value, then state the subscription price, the total paid in on account of the subscription, and furnish a statement showing the total consideration received from the sale of stock distributed as to capital and as to paid-in surplus.

Name In Full	Mailing Address	Total Subscription		Total Paid At Par Value
		Shares	Par Value	
PLEASE SEE ATTACHED SCHEDULE				
				Totals

FOR THE YEAR ENDED -

COMPARATIVE STATEMENT OF INCOME AND SURPLUS

ITEMS	Last Preceding Period Detail	Current Period	
		Total	Total
Net sales (where inventories are used)			
Inventory at beginning of period			
Merchandise purchased or manufactured			
Total			
Less inventory at end of period			
Cost of goods sold			
Gross profit on sales			
Gross revenues (where inventories are not used)			
Less cost of operation			
Gross profit			
Add other income			
Interest			
Dividends			
	PLEASE SEE ATTACHED STATEMENT		
Total income			
Less expenses			
Officers' salaries			
Other salaries and wages			
Depreciation			
Bad debts			
Interest			
Taxes other than income			
Net income (or loss) before income taxes			
Income taxes			
Net income (or loss) transferred to surplus			
Surplus at beginning of period			
Add credits to surplus (detail)			
Total			
Deficit at beginning of period			
Less debits to surplus (detail)			
Surplus (or deficit) at end of period		(6,155 23)	(4,360 08)
CAPITAL STOCK: NONE			
Issued during the period	(\$.....)	shares preferred stock at \$..... par value	
		shares common stock at \$..... par value	
Consideration received for stock issued during the period	(\$.....)	cash	
		value of property	
		value of services	
Acquired during the period	(\$.....)	shares preferred stock	
		shares common stock	
How acquired	(\$.....)	cash	
		(Other manner)	
Acquired stock reissued during the period	(\$.....)	shares preferred stock	
		shares common stock	
Consideration received for stock reissued during the period	(\$.....)	cash	
		value of property	
		value of services	
BONDED DEBT:			
Issued during the period	(\$.....)	par value	
Consideration received for bonds issued during the period	(\$.....)	cash	
		value of property	
		value of services	

SCHEDULE A-1

HONOLULU RECORD PUBLISHING Co., Ltd., 811 SHERIDAN St., HONOLULU, HAWAII

Statement of stockownership at close of business on Aug. 31, 1954

Stockholders	Address	Stock owner- ship	Amount		
			At par value	At paid-in value	Sub- sidy received
Acob, Antonio C.	Olaa, Hawaii	5	\$25	\$25	
Agnew, Leo C.	8430 California Ave., South Gate, Calif.	1	5	5	
Apilado, Andres	Box 133, Pahala, Hawaii	1	5	5	
Arminimi, H.	407 Kalaimoku St., Honolulu	3	15	15	
Baker, R. J.	1911 Kalakaua Ave., Honolulu	40	200	200	
Bassett, W. K.	(Deceased)	2	10	10	
Chagnon, Raymond	Care of Seamen's Club, Honolulu	1	5	5	
Ching, Hung Dow	2432-D Tuitala St., Honolulu	1	5	5	
Culinary and Service Workers, UPW.	451 Atkinson Dr., Honolulu	2	10	10	
Elia, John, Jr.	3915 Pahoa Ave., Honolulu	2	10	10	
Gima, Masaichi	Box 434, Lanai City, Lanai	5	25	25	
Hawai'i Civil Liberties Congress	1011-B Kapahulu Ave., Honolulu	10	50	50	
Higa, Yaeko	737 Oili Rd., Honolulu	3	15	15	
Ho, Virginia	2855-A-1 Winam Ave., Honolulu	100	500	500	
Hokama, Shire	Box 437, Lanai City, Lanai	5	25	25	
Kanakaoe, Kema	229 Desha Lane, Honolulu	1	5	5	
Kempa, Robert	1409-A Emerson St., Honolulu	1	5	5	
Kim, Rosalie	1598 Thurston Ave., Honolulu	1	5	5	
Lee, Kul Soon	Box 267, Lanai City, Lanai	5	25	25	
Lichtigram, Theodore M.	426 Namahana St., Honolulu	10	50	50	
Machara, Frank	815-8 Kanoa St., Honolulu	4	20	20	
Matsuzaki, N.	647 Kunawai Lane, Honolulu	21	105	105	
Maupon, L. B.	1245 South 21st St., Lincoln, Nebr.	10	50	50	
Minami, Chicko	Box 14, Lanai City, Lanai	5	25	25	
Miyagawa, M.	1311 Lusitana St., Honolulu	5	25	25	
Miyamoto, Richard S.	95 Merchant St., Honolulu	2	10	10	
Morishige, Richard	2742 Kalihii St., Honolulu	20	100	100	
Motoki, Matsuo	1314 Kalihii St., Honolulu	5	25	25	
Murin, Stephen and Evelyn	2357-C Palolo Ave., Honolulu	27	135	135	
Nagai, Hisashi	Box 96, Iaia, Hawaii	2	10	10	
Nakatsu, Harry	(Deceased)	5	25	25	
Oahu CIO Council	Honolulu, Hawaii	5	25	25	
Okubo, Yugo	1266 Matlock Ave., Honolulu	232	1,160	1,160	
Oshikata, Karen	Post Office Box 1132, Honolulu	1	5	5	
Ozaki, Doris	933 17th Ave., Honolulu	4	20	20	
Palomino, Adrian	331 West 11th St., New York	36	180	180	
Peltier, Alvin R.	717 Ocean View Dr., Honolulu	5	25	25	
Perlstein, Esther	3621 Kaimuki Ave., Honolulu	10	50	50	
Peterson, W. C.	836 16th Ave., CHA 3, Honolulu	2	10	10	
Reinecke, Mike	1555 Piikoi St., Honolulu	3	15	15	
Rohrbough, Edward	1127-B Aloha St., Honolulu	7,361	36,805	3,010	\$33,795
Rosenstein, Julius	1558 Piikoi St., Honolulu	2	10	10	
Shiraki, J. S.	1301 River St., Honolulu	20	100	100	
Tom Hoy, Peter	3413 Pahoa Ave., Honolulu	2	10	10	
Tannibaum, Gerald	1202 Ling Sin Lu, Shanghai	5	25	25	
Ujimori, Edward	Box 611, Puunene, Maui	5	25	25	
Wakida, Shizuko	2241 Makanaani Dr., Honolulu	161	805	805	
Wong, Sai Chien	218-A Pokobana St., Honolulu	1	5	5	
Wong, Sam	3228 George St., Honolulu	20	100	100	
Yadao, Emilio C.	3802 Paki Ave., Honolulu	66	330	330	
Yamanoto, R. M.	2132-A Waiola St., Honolulu	20	100	100	
Honolulu Record Pub- lishing Co., Ltd.	Honolulu, Hawaii	93	465	465	
Total		8,359	41,795	8,000	33,795

SCHEDULE B

HONOLULU RECORD PUBLISHING CO., LTD., 811 SHERIDAN ST., HONOLULU, HAWAII

Statement of operations for 12-month period ended Aug. 31 1954

	1954	1953	1952
Income:			
Advertising.....	\$6,450.61	\$7,113.81	\$6,321.56
Subscription.....	12,910.39	8,081.01	10,656.55
Direct sales.....	1,340.70	1,742.99	2,044.88
Job printing.....	16,869.93	20,666.35	19,100.82
Others.....	201.97	423.99	1,365.26
Total.....	37,773.60	38,028.15	39,489.07
Overhead:			
Bank service charges.....	45.70	39.85	43.90
Depreciation.....	1,505.85	987.59	987.59
Insurance.....	427.12	242.45	366.46
Interest.....	376.00		
Legal and audit.....	175.00	85.00	180.00
Light, water, and power.....	476.56	572.27	453.51
Mailing and hauling.....	2,287.78	2,069.12	1,446.63
Mileage and incidentals.....	357.01	165.12	271.17
Miscellaneous.....	86.35	251.88	664.70
Newsprint.....	1,840.50	530.45	2,006.36
Office supplies.....	152.39	166.39	147.31
Photoengraving.....	1,134.94	1,051.82	897.48
Press service.....	240.00	285.00	395.00
Printing costs.....	3,860.34	5,808.43	4,147.41
Promotions and public relations.....	25.00	220.00	628.79
Rental of premises.....	1,250.00	2,457.00	920.00
Salaries and wages.....	15,191.46	17,152.10	19,343.78
Sales commissions.....		96.50	250.26
Shop expenses and repairs.....	1,609.36	1,363.95	1,478.96
Subscription, dues, etc.....	49.62	27.00	16.75
Telephone and wire.....	275.23	232.27	137.00
Travel and subsistence.....	3,098.32	1,657.54	2,609.13
Taxes and licenses:			
Corporate exhibit.....	30.00	10.00	10.00
Gross income.....	942.17	1,027.00	965.91
License.....			28.31
Payroll taxes.....	361.41	322.07	745.73
Total.....	35,798.11	36,820.80	39,142.14
Net operating gain before taxes.....	1,975.49	1,207.35	346.93
Less, Territory of Hawaii income taxes.....	179.59	109.76	
Net operating gain.....	1,795.90	1,097.59	346.93

EXHIBIT 396-A

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ANNUAL CORPORATION EXHIBIT

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HONOLULU RECORD PUBLISHING COMPANY, LIMITED
811 SHERIDAN STREET, HONOLULU, HAWAII
(Mailing Address)
For the Year Ended **AUGUST 31, 1955**

Dose of Immunotherapy

Authorized Capital:	Shares	Par Share	Par Total
Class		\$ 5.00	\$ 50,000.00
Common	10,000		

Amount	\$ 43,210.00
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____

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SAKAE TAKAHASHI
Chief of the Territory of Hawaii

Basurer of the Territory of Hawaii
October 20, 1952:

Form approved on October 20, 1952:

Nature of corporate business:

Officers and directors as of	Name in Full	Residence Address
Office Held		
President	Koji Ariyoshi	909 B-3 Lakepana St.
Vice-President	R. J. Baker	1911 Kalakaha Ave.
Treasurer	R. A. Nakahara	1122 W. Alake St.

•Dissectors

Koji Ariyoshi	(Same as Above)
R. J. Baker	(Same as Above)
Edward Rohrbough	(Same as Above)
Iugo Okubo	1266 Matlock Ave., Honolulu
Emilio C. Iadao	3802 Paki Ave., Honolulu
Shizuko Wakida	2241 Makanaani Dr., Honolulu

*Majority of whom must be residents of the Territory of Hawaii.

DECLARATION

I declare, under the penalties set forth in Section 8348, Revised Laws of Hawaii 1945, as amended, that this exhibit, including any accompanying schedules or statements, has been examined by me, and to the best of my knowledge and belief is a true, correct, and complete exhibit, made in good faith, for the period stated.

Signatures of Person or firm preparing this exhibit

[Signature] (Signature of authorized corporate officer)

Date 12/23/53 Office held Kres

SPECIAL INSTRUCTIONS

All of the information requested in this exhibit must be furnished. Failure to do so will make this exhibit not acceptable. To file this exhibit on other than a calendar year basis, permission must first be obtained from the Treasurer of the Territory of Hawaii. This exhibit must be filed, and the filing fee of \$100 paid to the Treasurer within NINETY DAYS immediately following the close of the year basis adopted. Failure to file will subject the corporation to a maximum penalty of \$100.00 for every thirty days continuance, and if continued for a period of two years will further subject the corporation to disqualification by the Treasurer.

HONOLULU RECORD PUBLISHING Co., Ltd., 811 SHERIDAN ST., HONOLULU, HAWAII

Statement of stockownership at close of business on Aug. 31, 1955

Stockholders	Address	Shares owned	Amount		
			At par value	At paid-in value	Subsidy received
Agnew, Leo C.....	854 Lukepane St., Honolulu.....	1	\$5	\$5	-----
Apilado, Andres.....	Box 133, Pahala, Hawaii.....	1	5	5	-----
Arminimi, H.....	407 Kalaimoku, St., Honolulu.....	3	15	15	-----
Baker, R. J.....	1911 Kalakaua Ave., Honolulu.....	40	200	200	-----
Bassett, W. K.....	(Deceased).....	2	10	10	-----
Chagnon, Raymond.....	Care of Seamen's Club, Honolulu.....	1	5	5	-----
Ching, Hung Dow.....	2432 D Tuitala St., Honolulu.....	1	5	5	-----
United Public Workers.....	451 Atkinson Dr., Honolulu.....	2	10	10	-----
Elias, John, Jr.....	3915 Pahoa Ave., Honolulu.....	2	10	10	-----
Gima, Masachichi.....	Box 434, Lanai City, Lanai.....	5	25	25	-----
Hawaii Civil Liberties Congress.....	1011-B Kapahulu Ave., Honolulu.....	10	50	50	-----
Higa, Yaeko.....	737 Oili Rd., Honolulu.....	3	15	15	-----
Ho, Virginia.....	2555 A-1 Winam Ave., Honolulu.....	100	500	500	-----
Hokama, Shiro.....	Box 437, Lanai City, Lanai.....	5	25	25	-----
Kanakaole, Kema.....	229 Desha Lane, Honolulu.....	1	5	5	-----
Kempa, Robert.....	1409-A Emerson St., Honolulu.....	1	5	5	-----
Kim, Rosalie.....	1598 Thurston Ave., Honolulu.....	1	5	5	-----
Lee, Kwi Soon.....	Box 267, Lanai City, Lanai.....	5	25	25	-----
Liehiteram, Theo. M.....	426 Namahaia St., Honolulu.....	10	50	50	-----
Maebara, Frank.....	815-C Kanoa St., Honolulu.....	4	20	20	-----
Maupen, L. B.....	1245 South 21st St., Lincoln, Nebr.....	10	50	50	-----
Minami, Chieko.....	Box 14, Lanai City, Lanai.....	5	25	25	-----
Miyagawa, M.....	1311 Lusitana St., Honolulu.....	5	25	25	-----
Miyamoto, Richard S.....	95 Merchant St., Honolulu.....	2	10	10	-----
Motoki, Matsue.....	1314 Kalhi St., Honolulu.....	5	25	25	-----
Murin, Stephen and Evelyn.....	2357-C Palolo Ave., Honolulu.....	27	135	135	-----
Nazai, Hisashi.....	Box 96, Olaa, Hawaii.....	2	10	10	-----
Nakatsu, Harry.....	(Deceased).....	5	25	25	-----
Oahu CIO Council.....	Honolulu, Hawaii.....	5	25	25	-----
Okubo, Yugo.....	1266 Matlock Avenue, Honolulu.....	354	1,770	1,770	-----
Oshikata, Karen.....	Box 1132, Honolulu.....	1	5	5	-----
Ozaki, Doris.....	933 17th Avenue, Honolulu.....	4	20	20	-----
Palomino, Adrian.....	331 West 11th Street, New York.....	36	180	180	-----
Peltier, Alvin R.....	717 Ocean View Drive, Honolulu.....	5	25	25	-----
Perlstein, Esther.....	3621 Kaimuki Avenue, Honolulu.....	10	50	50	-----
Peterson, W. C.....	836 16th Avenue, CHA 3, Honolulu.....	2	10	10	-----
Reinecke, Aiko.....	1555 Piikoi Street, Honolulu.....	3	15	15	-----
Rohrbough, Edward.....	1127-B Aloha Street, Honolulu.....	7,361	36,805	3,010	\$33,795
Rosenstein, Julius.....	(Deceased).....	2	10	10	-----
Saiki, Rachael.....	2208-A Liliha Street, Honolulu.....	142	710	710	-----
Shiraki, J. S.....	1301 River Street, Honolulu.....	20	100	100	-----
Tam Hoy, Peter.....	3413 Pahoa Avenue, Honolulu.....	2	10	10	-----
Tannibaum, Gerald.....	1202 Ling Sin Lu, Shanghai.....	5	25	25	-----
Ujemori, Edward.....	Box 611, Puunene, Maui.....	5	25	25	-----
Wakida, Shizuko.....	2241 Makanani Drive, Honolulu.....	161	805	805	-----
Wong, Sai Chien.....	218-A Pokohana Street, Honolulu.....	1	5	5	-----
Wong, Sam.....	3228 George Street, Honolulu.....	20	100	100	-----
Yadao, Emilie C.....	3802 Paki Avenue, Honolulu.....	66	330	330	-----
Yamamoto, R. M.....	2132-A Waiala Street, Honolulu.....	20	100	100	-----
Honolulu Record Publishing Co., Ltd.	(Treasury Stock).....	118	590	590	-----
Total.....		8,602	43,010	9,215	33,795

HONOLULU RECORD PUBLISHING Co., LTD., 811 SHERIDAN ST., HONOLULU, HAWAII
Statement of operations for 12-month period ended Aug. 31, 1955, and comparison to same period ended Aug. 31, 1955

Accounts	1955	1954
Income:		
Advertising.....	\$7,237.54	\$6,450.61
Subscription.....	14,755.00	12,910.39
Direct sales.....	1,855.18	1,340.70
Job printing.....	15,285.23	16,869.93
Others.....	4,048.00	201.97
Total.....	43,180.95	37,773.60
Overhead:		
Bank-service charges.....	51.88	45.70
Depreciation.....	1,915.70	1,505.85
Insurance.....	413.20	427.12
Interests.....	376.00	
Legal and audits.....	565.00	175.00
Light, water, and power.....	637.85	476.56
Mailing and hauling.....	2,617.72	2,287.78
Mileage and incidentals.....	130.02	357.01
Miscellaneous.....	383.59	86.35
Newsprint.....	3,719.40	1,840.50
Office supplies.....	307.98	152.39
Photo supplies.....	1,349.58	1,134.94
Press service.....	287.50	240.00
Printing costs.....	3,588.00	3,860.34
Public relations.....	176.07	25.00
Rental of premises.....	1,564.42	1,250.00
Salaries and wages.....	19,445.33	15,191.46
Sales commissions.....	39.32	
Shop expenses.....	2,113.09	1,609.36
Subscription and dues.....	110.75	49.62
Telephone and wire.....	257.40	275.23
Travel and subscription.....	4,261.08	3,098.32
Taxes and licenses:		
Corporate exhibit.....	10.00	30.00
Gross income.....	843.71	942.17
Payroll taxes.....	633.16	361.41
Total.....	45,421.75	35,798.11
Net operating gain before taxes.....	(2,240.80)	1,975.49
Less, Hawaii income taxes.....		179.59
Net operating gain (loss).....	(2,240.80)	1,795.90

ANNUAL CORPORATION EXHIBIT OF HONOLULU RECORD PUBLISHING CO., LTD., FOR
THE YEAR ENDED AUG. 31, 1955*Comparative general balance sheet*

Items	Beginning of period		End of period	
	Detail	Total	Detail	Total
ASSETS				
Current:				
Cash on hand and in bank		\$102.96		\$1,199.29
Accounts receivable				
Less reserve for bad debts				
Notes receivable		26.40		656.66
Inventories				
Finished goods				
Raw materials and supplies				
Merchandise in transit				
Investments:				
Stocks:				
Local				
Mainland				
Bonds:				
U. S. Government				
State, municipal				
All other				
Fixed:				
Land				
Leasehold				
Buildings				
Machinery and equipment	\$11,850.90		\$17,565.62	
Furniture and fixtures				
Delivery equipment				
Total	11,850.90		17,565.62	
Less reserve for depreciation	4,788.81	7,062.09	6,704.51	10,861.11
Prepaid expenses:				
Unexpired insurance				
Interest				
Other assets:				
Capital stock subscription		33,795.00		33,795.00
Organization expense		352.75		352.75
Total assets		41,339.20		46,864.81
LIABILITIES AND CAPITAL				
Current:				
Accounts payable		4.93		200.43
Notes payable		98.00		8,200.00
Accrued expenses:				
Payroll		3,214.78		247.00
Interest				
Income taxes		179.59		
Other taxes		574.98		555.08
Fixed:				
Mortgage payable				
Bonds payable				
Deferred credits				
Capital:				
Preferred stock issued				
Common stock issued		41,795.00		43,010.00
Surplus reserves				
Capital surplus (donated surplus)		185.00		1,631.18
Earned surplus (or deficit)		(4,360.08)		(6,600.88)
Total		37,619.92		38,040.30
Less treasury stock at cost:				
Preferred				
Common		353.00	37,266.92	378.00
Total liabilities and capital			41,339.20	46,864.81

ANNUAL CORPORATION EXHIBIT OF HONOLULU RECORD PUBLISHING CO., LTD., FOR
THE YEAR ENDED AUG. 31, 1955—Continued*Comparative statement of income and surplus*

Items	Last preceding period		Current period	
	Detail	Total	Detail	Total
Net sales (where inventories are used).....				
Inventory at beginning of period.....				
Merchandise purchased or manufactured.....				
Total.....				
Less inventory at end of period.....				
Cost of goods sold.....				
Gross profit on sales.....				
Gross revenues (where inventories are not used).....				
Less cost of operation.....				
Gross profit.....				
Add other income.....				
Interest.....				
Dividends.....				
(Please see attached statement.)				
Total income.....				
Less expenses:				
Officers' salaries.....				
Other salaries and wages.....				
Depreciation.....				
Bad debts.....				
Interest.....				
Taxes other than income.....				
Net income (or loss) before income taxes.....	\$1,975.49	179.59		\$ (2,240.80)
Income taxes.....				
Net income (or loss) transferred to surplus.....	1,795.90			(2,240.80)
Surplus at beginning of period.....				
Add credits to surplus (detail).....				
Total.....	1,795.90			(2,240.80)
Deficit at beginning of period.....	(6,155.98)			(4,360.08)
Less debits to surplus (detail).....				
Surplus (or deficit) at end of period.....	(4,360.08)			(6,600.88)

CAPITAL STOCK

Issued during the period :

----- shares preferred stock at \$----- par value

243 shares common stock at \$5.00 par value

Consideration received for stock issued during the period :

\$----- cash

\$----- value of property

\$1,215.00 value of services

Acquired during the period :

5 shares preferred stock

----- shares common stock

How acquired :

\$----- cash

Other manner: Donated

Acquired stock reissued during the period :

----- shares preferred stock

----- shares common stock

Consideration received for stock reissued during the period :

\$----- cash

\$----- value of property

\$----- value of services

BONDED DEBT

Issued during the period : \$----- par value

Consideration received for bonds issued during the period :

\$----- cash

\$----- value of property

\$----- value of services

VOTING POWERS AND STOCKHOLDERS

(a) Does each share of stock have the right to vote? Yes. If not, explain voting rights:

(b) Has any class of stock or securities any special privileges in the election of directors, trustees, or other management personnel, or in the determination of any corporate action? No. If so, give details:

(c) State the total voting power of all stockholders as of the date of this report. 8602.

(d) State the total number of stockholders as of the date of this report. 50.

(e) In the space below, or on sheets attached thereto and in accordance with the column headings indicated, list all stockholders by each class of stock. If the stock is held by a trustee, make a full disclosure of the names, addresses and shares of the equitable owners. If the stock is without par value, then state the subscription price, the total paid in on account of the subscription, and furnish a statement showing the total consideration received from the sale of stock distributed as to capital and as to paid-in surplus.

Name in full	Mailing address	Total subscription		Total paid at par value
		Shares	Par value	
(Please see attached schedule.)				
Total.....				

Mr. MORRIS. Senator, I think I have no more questions of this particular witness.

Senator WATKINS. Do the members of the committee have questions?

Senator JOHNSTON. No questions.

Senator WATKINS. Hearing no response, the witness will be permitted to step aside.

Mr. MORRIS. Stand by in the event that we may have to call you again, Mr. Rohrbough. In the event that we may have to.

Mr. Okubo.

Senator WATKINS. Raise your right hand. Do you solemnly swear the testimony you are about to give in the matter pending before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. OKUBO. I do.

Senator WATKINS. You may examine.

TESTIMONY OF YUGO OKUBO

Mr. MORRIS. Mr. Okubo, are you the second largest stockholder in the Honolulu Record?

(The witness consults with his counsel.)

Mr. OKUBO. I decline to answer on the first and fifth amendment to the Constitution.

Mr. MORRIS. He relied on the privilege under the fifth amendment in refusing to answer. Senator, will you rule on that? He's claimed

privilege under the first amendment. Unless the stipulation as to the other witness carries over—

Senator WATKINS. We don't have attorneys of record in this case. I mean for all purposes. They're only here for one purpose. I would say you have to ask the witness himself.

Mr. OKUBO. I decline on the first and the fifth.

Senator WATKINS. I rule, with respect to the first amendment, that the objection is not good, the claim is not good. But with respect to the second one, the fifth amendment, the chairman will allow your claim for immunity, or sustain your refusal to testify.

Mr. MORRIS. Now, Mr. Chairman, in our record is a statement of stock ownership at the close of business on August 31, 1955, and it indicates that the witness here today, Yugo Okubo—

Are you Yugo Okubo, whose name appears in the statement of stock ownership?

(The witness consults with his counsel.)

Mr. OKUBO. Same answer.

Mr. MORRIS. Mr. Chairman, I note that this statement so described and now in our record indicates that the witness here owns 354 shares and is, therefore, the second largest stockholder in the publication we are talking about. The paid-in value of the stock is \$1,770.

Senator WATKINS. Has that entire statement been made a part of the record?

Mr. MORRIS. That's right, Senator.

Senator WATKINS. It has been made a part of the record.

Mr. MORRIS. Mr. Okubo, are you presently a Communist?

(The witness consults with his counsel.)

Mr. OKUBO. Same answer.

Senator WATKINS. Have you ever been a Communist?

(The witness consults with his counsel.)

Mr. OKUBO. I will make the same answer on that.

Mr. MORRIS. Did you pay \$1,770 for the stock?

(The witness consults with his counsel.)

Mr. OKUBO. Same answer.

Mr. MORRIS. Now, did you take your apprenticeship training at the Honolulu Record under the GI bill of rights?

(The witness consults with his counsel.)

Mr. OKUBO. Same answer.

Mr. MORRIS. Where were you born, Mr. Okubo?

Senator JOHNSTON. Wait. Just one question there.

Did you realize that we have a law on the statute books that makes it a penalty to receive money from the Federal Government and at the same time be in the activities of the Communist Party?

(The witness consults with his counsel.)

Mr. MORRIS. Mr. Chairman, I note since Counsel Bouslog has taken over here that the responses are considerably delayed.

Senator JOHNSTON. I notice another thing too. They talk and discuss, and I think they even discuss everything that might come up later. I can tell by the expressions on their faces, it looks like that's what they are doing, and you're just taking up the time of this hearing. And they always come back and then hide behind the fifth amendment, every time.

(The witness continued to consult with his counsel.)

Mr. OKUBO. Same answer.

Mr. MORRIS. Has the Honolulu Record been distributed, to your knowledge, to Red China?

(The witness consults with his counsel.)

Mr. OKUBO. Same answer.

Mr. MORRIS. Mr. Chairman, I have no more questions of this witness.

Senator WATKINS. Any member of the committee have questions? You may step aside.

Senator JOHNSTON. Wait just a minute.

Senator WATKINS. Senator Johnston.

Senator JOHNSON. According to the record here, you are one of the owners of the Honolulu Record Publishing Co., and you are even denying and ashamed to own that you have any connection with it whatsoever?

(The witness consults with his counsel.)

Mr. OKUBO. I make the same answer on that.

Senator WATKINS. What was that answer?

(The answer was read by the reporter.)

Mr. MORRIS. I have no more questions.

Senator WATKINS. You may step aside.

Mr. MORRIS. Wilfred Oka.

Senator WATKINS. Raise your right hand. You solemnly swear that the testimony you are about to give in the matter pending before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. OKA. I do.

TESTIMONY OF WILFRED M. OKA

Mr. MORRIS. Give your name and address to the reporter, Mr. Oka.

Mr. OKA. Wilfred M. Oka. The address is 1042 Bethel Street.

Mr. MORRIS. You were born in Honolulu on February 24, 1912, were you not?

Mr. OKA. Yes, sir.

Mr. MORRIS. And you are the manager of the Corner Liquor Store at 1042 Bethel Street, Honolulu?

Mr. OKA. Yes, sir.

Mr. MORRIS. Yes. Are you the sports editor of the Honolulu Record?

(The witness consults with his counsel.)

Mr. OKA. I decline to answer on the basis of the first and fifth amendments.

Mr. MORRIS. Mr. Oka, were you in the room when I read into the record the testimony of Theodore Emanuel?

(The witness consults with his counsel.)

Senator BUTLER. Mr. Chairman.

Senator WATKINS. Senator Butler.

Mr. OKA. I was in the room.

Mr. MORRIS. You were. Did you hear the testimony of Mr. Emanuel to the effect that he bought these two particular issues of the China Monthly Review from you, in your liquor store?

(The witness consults with his counsel.)

Senator JOHNSTON. Did I understand you, when you were talking to them, to say that you did? Wasn't that what you said?

Mr. OKA. I asked for advice.

Senator JOHNSTON. I thought that's what you told him. Didn't know how to answer it.

(The witness consults with his counsel.)

Mr. MORRIS. Senator, apparently the witnesses in the front row all seem to—they all indicate that they heard him say, "I did."

Senator JOHNSTON. I think we could put them all on the witness stand and I think most of them would acknowledge that is what he turned around and told them.

Senator WATKINS. Whatever it is, it isn't in the record, I assume.

Did the reporter get an answer before he started to consult counsel?

The REPORTER. No, sir.

Senator WATKINS. Well, all right, he didn't say it then, according to the record.

Senator WELKER. Now, what is the question that is taking all afternoon here?

Mr. OKA. I am not very clear about that.

Mr. MORRIS. Will you read the question, Mr. Cowart, please?

Senator WATKINS. You claimed the protection of the fifth amendment, didn't you? Is that what you have done?

Mr. MORRIS. No, I don't think so.

Senator WELKER. No; he said he wasn't clear about the question.

Senator WATKINS. Oh.

Senator WELKER. Neither am I.

Mr. MORRIS. Mr. Cowart, will you read that question back, the one I asked the witness?

(The question was read by the reporter.)

(The witness consults with his counsel.)

Mr. MORRIS. Let the record show that the two issues have been put in front of the witness.

(The witness consults with his counsel.)

Mr. OKA. I didn't see Mr. Emanuel testify; I didn't hear him testify here.

Mr. MORRIS. I read the testimony of Mr. Emanuel into the record. Do you want me to read it again?

Mr. Emanuel said:

Mr. MORRIS. Have you purchased an issue of the China Monthly Review here in Honolulu?

Mr. EMANUEL. Yes. I have purchased two issues of the China Monthly Review from the Corner Liquor Store. The July 1951 issue and the August 1951 issue.

Mr. MORRIS. When did you make these purchases?

Mr. EMANUEL. I purchased the August issue on September 20, 1951, and I purchased the July issue in August, 1951, the exact dates not being recalled. I purchased the copies from Wilfred Oka.

(The witness consults with his counsel.)

Mr. OKA. What is—What I want to find out is, What is the question you want to ask of me?

Senator WATKINS. Just a moment.

Senator JOHNSTON. Did you—

Senator WATKINS. Counsel asked you if you heard it before. Now I will ask you, Did you hear it this time?

Mr. OKA. It is very confusing. I'm—

Mr. MORRIS. Well, did you sell the—

Senator WATKINS. Just a minute.

Senator JOHNSTON. Did you sell those two magazines? That's the question.

Senator WATKINS. Getting back—Counsel, let's clear that up before we go on some more. He asked you first if you heard it and you wanted to know, you apparently didn't hear it, you said you didn't. Now, I am asking you if you heard it when he read it just now? Did you hear what the counsel read?

(The witness consults with his counsel.)

Mr. OKA. Yes, sir.

Senator WATKINS. The answer is "Yes," is that right?

Mr. OKA. Yes, sir.

Senator WATKINS. All right. Proceed.

Mr. MORRIS. Now, did you in fact sell those two issues to Mr. Emanuel?

(The witness consults with his counsel.)

Mr. OKA. I decline to answer on the same ground, sir.

Senator WATKINS. On the ground that it might incriminate you?

Mr. OKA. Yes, sir.

Senator WATKINS. I think that objection is well taken.

Senator JOHNSTON. Mr. Chairman, I would like to make a statement right here. I am glad—I can see now why a witness does not want to be televised and let the world see just what's taking place and just how he would answer the questions if left alone.

Mr. MORRIS. Mr. Oka, did you join the Communist Party in February 1946?

(The witness consults with his counsel.)

Mr. OKA. Same answer, sir. Same answer.

Mr. MORRIS. Did you have Communist Party card N. 74935?

Mr. OKA. Same answer.

Mr. MORRIS. Have you been a member of the Makiki branch of the Communist Party?

Mr. OKA. Same answer.

Mr. MORRIS. Have you been secretary of the Oahu County Committee of the Democratic Party? As late as 1950?

(The witness consults with his counsel.)

Mr. OKA. Same answer, sir.

Mr. MORRIS. Were you chairman of the educational group of the Communist Party at a meeting held at the home of Jeanette Nakama at 1527 Kaihi Lane in Honolulu?

Mr. OKA. Same answer.

Mr. MORRIS. Were you recruited into the Communist Party by Koichi Omori in January of 1946?

Mr. OKA. Same answer.

Senator WATKINS. Or at any other time than that mentioned in the question?

Mr. OKA. I didn't hear you, sir.

Senator WATKINS. I say "or at any other time?"

Mr. OKA. Same answer.

Senator WELKER. Do you know the gentleman referred to?

(The witness consults with his counsel.)

Mr. OKA. Same answer.

Mr. MORRIS. Now, you have tried to recruit members into the Communist Party, have you not, Mr. Oka?

(The witness consults with his counsel.)

Mr. OKA. Same answer, sir.

Mr. MORRIS. Now, as an official of the Oahu County Democratic Committee, you have controlled patronage, have you not?

(The witness consults with his counsel.)

Mr. OKA. Same answer, sir.

Senator WATKINS. Do you have any influence or have you attempted to exert any influence in that committee, in that party, with respect to patronage?

Mr. OKA. Same answer, sir.

Mr. MORRIS. In fact, you have submitted lists of nominees for appointment as election inspectors; have you not?

Mr. OKA. Same answer, sir.

Mr. MORRIS. Appointments as clerks, have you not?

Mr. OKA. Same answer.

Mr. MORRIS. And you made these recommendations to the Secretary of Hawaii?

Mr. OKA. Same answer.

Senator WELKER. I would like to make the observation that the witness seems to be using full throttle now, without the help of counsel.

May I ask a question, Mr. Chairman?

Senator WATKINS. Senator Welker.

Senator WELKER. What is your business or occupation?

(The witness consults with his counsel.)

Mr. OKA. I have already answered that, sir.

Senator WATKINS. It won't hurt to answer it again. The Senator apparently didn't hear you. You don't object to answering again?

Mr. OKA. I think it is in the record. I said storekeeper.

Senator WATKINS. What's that?

Mr. OKA. Storekeeper.

Senator WELKER. Schoolteacher?

Mr. OKA. Storekeeper.

Senator WELKER. Storekeeper. What sort of a store do you keep? Oh, it isn't against the law to run a store.

Mr. OKA. It's a liquor store, sir.

Senator WELKER. Sir?

Mr. OKA. It's a liquor store, sir.

Senator WELKER. Liquor store. It is commonly known as the Corner Liquor Store?

(Witness consults with counsel.)

Mr. OKA. That's right, sir.

Senator WELKER. Do you sell anything else there other than liquor?

(The witness consults with his counsel.)

Senator WELKER. Now, why do you hesitate, Mr. Witness? Certainly you can get your advice in this length of time.

Mr. OKA. I beg your indulgence, sir.

Senator WELKER. I didn't hear you.

Mr. OKA. I beg your indulgence, sir.

Senator WELKER. Well, you'd better beg it because it is going to take some begging to get it.

Senator WATKINS. Let's have order, please.

The witness has a right, under the rules of the committee, to ask the advice of his counsel and take a reasonable time in which to do it.

Mr. OKA. I sell books, magazines, candy, cigarettes, peanuts.

Senator WELKER. I see. Now, among the magazines sold by you, Mr. Witness, did you ever sell the China Monthly Review?

Mr. OKA. I need your advice.

(The witness consults with his counsel.)

Mr. OKA. I refuse to answer the question, on the fifth amendment.

Senator WELKER. Mr. Chairman, since the witness has opened up the subject matter, may I ask you, Mr. Chairman, to order and direct the witness to answer the question, under the penalty of contempt if he so refuses.

Senator WATKINS. You are ordered, and directed to answer the question. Your claim for silence is not allowed.

(The witness consults with his counsel.)

Mr. OKA. Same answer, sir.

Senator WELKER. Do you sell the Peoples Daily World?

Mr. OKA. I need legal advice.

(The witness consults with his counsel.)

Mr. OKA. Same answer.

Senator WELKER. Payette Independent Enterprise?

Mr. OKA. I didn't hear the question.

Senator WELKER. The Payette Independent Enterprise.

Mr. OKA. I don't understand your question.

Senator WELKER. I say, Do you sell the Payette Independent Enterprise? That's a newspaper.

Mr. OKA. Same answer.

Senator WELKER. For your information, the Payette Independent Enterprise is my hometown newspaper, with a circulation of about 300, I think.

Senator WATKINS. Order.

Mr. MORRIS. Do you sell that paper, Mr. Oka? Do you sell the paper Senator Welker just described?

Mr. OKA. I gave him the answer. I said—

Mr. MORRIS. You don't sell it, do you?

Mr. OKA. I refuse to answer.

Senator WELKER. No, he didn't. He refused to answer about my hometown paper.

Mr. MORRIS. Senator, I ask that the witness be directed to answer that question.

Senator WATKINS. Well, it's just a little bit farfetched, but I will make the order.

Senator WELKER. It may be farfetched, but it is—

Mr. OKA. I didn't understand what you were talking about, Senator Welker.

Senator WELKER. You did understand what I was talking about when I discussed the Peoples Daily World and China Monthly Review, though, didn't you?

Mr. OKA. Same answer.

Mr. MORRIS. Senator, I ask that the witness be directed to answer the question about Senator Welker's hometown paper.

Senator WATKINS. The order is that he shall answer that question. His objection or request for silence is overruled.

Mr. OKA. No; I don't sell your paper, sir.

Senator WELKER. It isn't my paper.

Senator WATKINS. Just a moment. I have a question or two I would like to ask. What magazines do you sell? You say you sell magazines. Now I think we're entitled to know some of the magazines you do sell.

(The witness consults with his counsel.)

Mr. OKA. Now that I understand the question leading up to these things, I refuse to answer on the basis of the fifth amendment.

Mr. MORRIS. Mr. Oka, the committee has been told that you furnished liquor to the executive board meetings of the ILWU. Is that a fact?

(The witness consults with his counsel.)

Mr. OKA. The same answer, sir.

Mr. MORRIS. Now, you have worked, have you not, for the YMCA here in Honolulu?

(The witness consults with his counsel.)

Mr. OKA. I worked at the YMCA.

Mr. MORRIS. Yes. And then later you worked as assistant business agent for the Carpenters Union, AFL, did you not?

(The witness consults with his counsel.)

Mr. OKA. I refuse to answer that on the basis of the fifth amendment.

Mr. MORRIS. Senator, I have quite a few more questions that I could ask of this witness, but in order to maintain the schedule that we have set up for ourselves, and in view of the delayed responses that we are getting from this particular witness, I will finish my inquiry at this time.

Senator JOHNSTON. I noticed he said he worked at the YMCA. What kind of work did you do at the YMCA?

Mr. OKA. Boys work and coaching swimming.

Senator WELKER. When did you work down there?

Mr. OKA. 1935 till 1940.

Senator WELKER. You haven't worked there recently?

Mr. OKA. No, sir.

Senator WATKINS. Any further questions?

Senator WELKER. None here.

Senator WATKINS. The witness may step aside then.

Call your next witness.

Mr. MORRIS. The last public witness for today, Senator, that I am prepared to examine, is Koichi Omori.

Senator WATKINS. Raise your right hand. Do you solemnly swear the testimony you are about to give in the matter now pending before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. OMORI. I do.

TESTIMONY OF KOICHI OMORI

Mr. MORRIS. Give you name and address to the reporter, Mr. Omori.

Mr. OMORI. Koichi Omori, 36 North School Street.

Mr. MORRIS. Where were you born, Mr. Omori?

Mr. OMORI. On this island. Waipahu.

Mr. MORRIS. What was your elementary school education?

Mr. OMORI. I would like to seek advice of counsel.

Mr. MORRIS. You may.

(The witness consults with his counsel.)

Mr. OMORI. Elementary school education, Pookaina School.

Mr. MORRIS. High school.

Mr. OMORI. Advice of counsel again.

(The witness consults with his counsel.)

Mr. OMORI. Just 2 months in McKinley High School, on this island.

Mr. MORRIS. Mr. Chairman, our information is that this man was recently international representative of the ILWU, until very recently.

Will you tell us when you last held the position of international representative of the ILWU?

Mr. OMORI. I would like to seek the advice of counsel again.

Senator WATKINS. Speak up. I can hardly hear you.

Mr. OMORI. I want to consult counsel.

(The witness consults with his counsel.)

Mr. OMORI. I decline to answer that question on the grounds of the first and fifth amendments.

Mr. MORRIS. Are you a Communist now, Mr. Omori?

Mr. OMORI. Same answer.

Senator WATKINS. Have you ever been a Communist?

Mr. OMORI. Same answer.

Mr. MORRIS. Did you not in May of 1947 approach a man named Harold E. Yamashita, show him your Communist membership card, tell him that you had been a Communist Party member for a number of years, and invite him to join the Communist Party?

Mr. OMORI. May I get the name of that person again, please?

Mr. MORRIS. Harold E. Yamashita—Y-a-m-a-s-h-i-t-a.

Mr. OMORI. Same answer.

Mr. MORRIS. I have pronounced it correctly, haven't I, Yamashita?

Mr. OMORI. You have the name. I don't know whether that is correct or not. As to your question whether you pronounce it correct, I wouldn't know. Just giving you the answer that—

Seantor WELKER. Did you ever hear the name before?

Mr. OMORI. I decline to answer. Same answer.

Mr. MORRIS. You have been discharged as a business agent of Local 904 of the A. F. of L. Teamsters Union because of your Communist Party membership, have you not?

Mr. OMORI. Same answer.

Mr. MORRIS. Were you the business agent of Local 904 of the A. F. of L. Teamsters Union?

Mr. OMORI. I decline to answer that on the same ground.

Mr. MORRIS. And did the A. F. of L. expel you because you were a Communist?

Mr. OMORI. Same answer.

Mr. MORRIS. Or discharge you?

Mr. OMORI. Same answer.

Senator WATKINS. Or because they claimed you were a Communist?

Mr. OMORI. Same answer.

Mr. MORRIS. Were you, in fact, a Communist at the time of your discharge from the A. F. of L. Teamsters?

Mr. OMORI. Will you repeat that question again, please?

Mr. MORRIS. Were you, at the time of your discharge from the A.F. of L. Teamsters Union, a Communist?

Mr. OMORI. I decline to answer that question on the same grounds.

Mr. MORRIS. You have been a member of both the Waikiki group and the Makiki group of the Communist Party, have you not?

Mr. OMORI. Same answer.

Mr. MORRIS. Senator, I have no more questions of this particular witness.

Senator WATKINS. You may step aside. Wait a moment. Any member of the committee wish to question him? You may step aside.

Mr. MORRIS. Senator, may we have an executive session scheduled for 9 o'clock tomorrow morning?

Senator WATKINS. That will be the order.

Mr. MORRIS. The first public witness tomorrow morning will be Benjamin Franklin Dillingham. We expect to have about four witnesses in executive session tomorrow, Senator. Four people have been subpoenaed for that time. May the executive meeting begin at 9 o'clock, Senator?

Senator WATKINS. The executive meeting wil begin at 9 and the regular session, I take it, will be 9:30.

Mr. MORRIS. That's right, sir.

Senator WATKINS. This committee will now stand in recess until 9:30 tomorrow morning.

(Whereupon, at 5:18 p. m., the subcommittee recessed.)

x

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